

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Mohamed Aly Saad Aly, File No. 12CV1960
(JRT/FLN)
Petitioner,

vs.

Amal Aden,

Minneapolis, Minnesota
November 13, 2012
9:50 A.M.

Respondent.

BEFORE THE **HONORABLE JOHN R. TUNHEIM**
UNITED STATES DISTRICT COURT JUDGE
(EVIDENTIARY HEARING-VOLUME I)

APPEARANCES

For the Petitioner: Walling, Berg & Debele, PA
NANCY ZALUSKY BERG, ESQ.
LILO KAISER, ESQ.
121 South Eighth Street
Suite 1100
Minneapolis, MN 55402

For the Respondent: Robins Kaplan Miller & Ciresi
BRIAN S. CARTER, ESQ.
DAVID P. SWENSON, ESQ.
KATHERINE K. BRUCE, ESQ.
ANDREA C. YANG, ESQ.
LAURA E. NELSON, ESQ.
Suite 2800
800 LaSalle Avenue
Minneapolis, MN 55402

Present via phone: Mohamed Aly Saad Aly

Interpreter: Ibrahim Rddad

Court Reporter: **KRISTINE MOUSSEAU, CRR-RPR**
1005 United States Courthouse
300 Fourth Street South
Minneapolis, Minnesota 55415
(612) 664-5106

Proceedings recorded by mechanical stenography;
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9:50 A.M.

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(In open court.)

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11 Zalusky Berg and Lilo Kaiser from Walling & Berg, and also
12 present is my legal assistant Jen Heinen, and Mr. Aly Saad
13 Aly is present by telephone.

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MS. BERG: Correct, Your Honor.

LINÉ MOUSSEAU, CR
(610) 664-5126

1 THE COURT: Who is ready on that?

2 MS. BERG: Before we launch into argument, have
3 we sorted out all the timing now? I'm looking at your
4 clerk.

5 THE COURT: We're going to run until two o'clock.
6 I can't stay much past two today, but we will have a
7 shortened lunch break to gain time.

8 Tomorrow I think we have the whole day available.

9 MS. BERG: What time do you anticipate the lunch
10 break to be?

11 THE COURT: Somewhere around noon, whenever it is
12 convenient, but we will break only for 20, 25 minutes or so
13 so we can save on time.

14 MS. BERG: Thank you. We did bring a motion to
15 request that certain reports --

16 THE COURT: Come over to the lectern.

17 MS. BERG: My apologies -- to request that
18 certain reports be excluded from evidence. We have
19 provided detailed pleadings to you, but essentially the
20 reports are more in the nature of bootstrapped evidence
21 than they are in offering any evidentiary help to the Court
22 under the rules.

23 This is a pretty simple case, a child wrongfully
24 removed from the home, the place of habitual residence.
25 First, we have to establish wrongful removal occurred,

1 which I believe will be relatively straightforward. The
2 defenses are limited, and those defenses are very well
3 detailed in the law.

4 Now they're arguing grave risk and arguing that
5 domestic violence occurred, therefore qualifying as grave
6 risk. I would point out to the Court that Mr. Edleson's
7 report does not rely on any evidence. It relies solely on
8 his interview with the respondent and his review of certain
9 information, all of which was created through interview
10 with the respondent.

11 So we have an order for protection proceeding in
12 Anoka County. It was ex parte. It has never been served
13 on petitioner, and therefore the allegations contained
14 therein are nothing more than allegations. The police
15 reports, which I don't believe Mr. Edelson reviewed because
16 he certainly doesn't specify that review in his report,
17 provide some scintilla of evidence that could be credible.

18 However, close review of those police reports
19 reveals that the police concluded neither party had been
20 harmed, there had not been domestic violence and that
21 frankly neither party was very credible.

22 This is a situation, which unlike other expert
23 reports where you have credible evidence of an incident, an
24 oil spill, a car accident, something where we can know what
25 happened, we have none of that here. The evidence being

1 offered by Jeffrey Edelson is simply leveraging the
2 allegations made by respondent into 1264 pages of articles
3 and reports that he has accumulated, and from all of that,
4 he draws conclusions without any facts on which to rest
5 those conclusions.

6 The same is true for the report of Ms. Boyle and
7 again both of these reports -- strike that. Ms. Boyle does
8 the same thing. I would caution the Court that even in
9 looking at, and I don't have it in front of me, but the
10 response of respondent in which she attaches a UN report on
11 female genital mutilation, that report indicates that the
12 prevalence rate in Somalia, the nation of her culture, is
13 98 percent, greater than in Egypt.

14 So whatever Ms. Boyle says as to petitioner is
15 true as to respondent, effectively neutralizing the
16 information that she would suggest would be relevant to
17 this proceeding and helpful to the Court.

18 Finally with regard to Nora Roundtree,
19 Ms. Roundtree and Mr. Aly Saad Aly were married briefly
20 some ten years ago. Same exact situation. Order for
21 protection obtained ex parte. No service, and it is used
22 solely as Rule 404 character evidence. It's ten years old.

23 It is attempting to bootstrap an allegation,
24 which is nothing more than an allegation. There is no
25 finding by a Court that domestic violence occurred ten

1 years ago in that brief relationship, therefore you must
2 draw the conclusion that the allegations that we're going
3 to hear from respondent today are not credible.

4 I'm satisfied that this Court, even though you're
5 not in a state court and don't hear domestic abuse
6 proceedings on a regular basis, has the skill and the
7 ability to ascertain the credibility of witnesses when
8 allegations such as these are made.

9 Frankly, Your Honor, these expert reports offer
10 nothing, other than the volume of paper that we have
11 received in this proceeding. So we are requesting, Your
12 Honor, that those expert reports be excluded and the
13 testimony and documentary evidence of Ms. Roundtree be
14 excluded as well.

15 Thank you.

16 THE COURT: All right. Thank you, Ms. Berg.

17 Go ahead.

18 MS. BRUCE: May I go, Judge?

19 THE COURT: Sure.

20 MS. BRUCE: Good morning, Your Honor.

21 Unfortunately, this is not a simple case. Your Honor knows
22 that we are alleging the defense of grave risk and
23 everything that these two experts speak to goes directly to
24 that defense.

25 Everything that Ms. Berg has said is more

1 important to the weight that this Court will give to these
2 experts, but not so much to their admissibility. These
3 cases, these Hague cases, as Your Honor well knows, are
4 largely allegation based, credibility of witnesses. We
5 have made a very, very good faith effort to obtain every
6 document humanly possible in the short turnaround that we
7 have had.

8 And as for the type of evidence both experts rely
9 on, both experts have reviewed the petitions, the counter
10 petitions, the exhibits that are attached. It's concrete
11 evidence. Allegations are what experts often rely on and
12 is important for experts to rely on. The -- and I won't --

13 You received the pleadings in this matter, but
14 both of these experts are certainly qualified. They are
15 internationally recognized, have published extensively, and
16 Ms. Boyle establishes the grave risk of harm where female
17 genital mutilation or cutting is conducted, which is
18 directly our defense that this is a grave risk of harm to
19 the daughter in this case.

20 And Dr. Edelson talks about the grave risk of
21 harm when exposed to domestic abuse. Directly goes to the
22 harm of the child in this case, an essential element of our
23 claim. I think certainly these experts are reliable.
24 Everything they have written is peer reviewed and published
25 all over this country and in fact all over the world.

1 Thank you.

2 THE COURT: Thank you, Ms. Bruce.

3 Did you have anything else, Ms. Berg?

4 MS. BRUCE: Your Honor --

5 THE COURT: Go ahead.

6 MS. BRUCE: As to Ms. Roundtree, it's on my
7 second page there. First of all, counsel mentioned the OFP
8 that was never served on Ms. Roundtree. That's precisely
9 why we are putting Ms. Roundtree forward. She will testify
10 about the OFP, and it's important that she talks. And, you
11 know, again, the type of harm she has suffered and the fear
12 of harm she had for her daughter when she separated from
13 Mr. Aly goes directly to the type of grave harm that we're
14 talking about in this case.

15 I'm not sure if counsel for petitioner still is
16 looking to exclude the past marriages, but it was something
17 that was included in the motion, but, you know, again, at
18 the risk of repeating myself, this goes directly towards
19 the pattern of abuse that Mr. Aly has had toward
20 significant others and children and related parties, and
21 that's at the heart of this case.

22 Thanks. I don't know when you would like to hear
23 our motions? Should I just stay up here?

24 THE COURT: Why don't you? Go ahead. That's
25 fine.

1 Unless you had a reply here. You can do it when
2 you respond there.

3 Go ahead.

4 MS. BRUCE: All right. In terms of the
5 petitioner's experts, Ms. Gladkykh, I'm not sure exactly
6 how to pronounce it, we submit has no specialized knowledge
7 in any of the issues in this case. The Court can look at
8 the issue of what will happen when or if the child is
9 returned to Canada, but it's not required to under the
10 Convention.

11 And I don't, I don't doubt that Canada has
12 excellent systems for victims of abuse, but what we are
13 alleging is that there is no situation in which the
14 Canadian system can prevent the grave risk of harm should
15 this child be returned to where the father is.

16 Mr. Aly has had a pattern of disregard for
17 authority. The evidence is going to show today that he
18 manipulated the system in Canada to get his current court
19 order, lied to the police, lied to this Court in his
20 discovery, and so we think that the undertaking issue
21 should not be heard by this Court.

22 And as to Mr. Awad, he discusses the issue of the
23 legality of the marriage status of Mr. Aly, which we submit
24 is not relevant to the material issues in this case. We're
25 not discussing whether or not he was legally married or

1 divorced at any given time, but we are talking about the
2 ongoing pattern of abuse towards women.

3 Thank you.

4 THE COURT: All right. Ms. Berg?

5 MS. BERG: Thank you, Your Honor. Frankly, this
6 has been part of our frustration with the manner in which
7 this case has been handled and the excessive litigation.

8 With regard to Mr. Abed, what counsel for
9 respondent has failed to acknowledge is that the issue of
10 the marriages and the cultural nature of the marriages is
11 relevant to this Court because at the time that respondent
12 married religiously petitioner, she was married to someone
13 else.

14 So what is good for the goose is good for the
15 gander, and that's going to be the tried and true theme of
16 this case. The fact is that, and I'm not sure I can say
17 her name, either, the Canadian lawyer's testimony is
18 relevant because the Convention directs you to return the
19 child to the place of habitual residence.

20 To suggest that the Canadian system is incapable
21 of providing protections and that only America can do that
22 is beyond arrogant. Mr. Abed provides specialized
23 knowledge. He is Palestinian by birth. He is fluent in
24 the Egyptian language and the law of Sharia. That's what
25 his report is about because it was suggested in this

1 petition -- strike that -- the response that Mr. Aly Saad
2 Aly was not only going to engage in female genital
3 mutilation and otherwise terrorize the respondent, but
4 further that he might be a terrorist.

5 If there was ever any specious arguments totally
6 intended to negatively, excuse me, to prejudice somebody
7 simply trying to assert their rights, it was the response
8 that we received to our verified petition, and thus, it was
9 necessary to obtain an expert in Egyptian law and Sharia
10 law.

11 Your Honor, certainly if there is any suggestion
12 that an expert should be limited, it would be the experts
13 offered by respondent and not those by petitioner.

14 Thank you.

15 THE COURT: Anything else, Ms. Bruce?

16 MS. BRUCE: Three quick things if I may, Your
17 Honor.

18 THE COURT: Go ahead.

19 MS. BRUCE: First, I would just really like to be
20 clear that we have never suggested that the Canadian courts
21 are incapable of handling these types of situations. In
22 fact, I just said that, and we have never stated that
23 Mr. Aly is a terrorist in any way, shape or form.

24 THE COURT: All right. At this stage, I'm going
25 to deny each of the motions in limine. The arguments that

1 I've heard and what I have read really do go primarily to
2 the weight of the issues, as opposed to the admissibility.
3 I will, of course, if I believe the testimony is straying
4 off the mark and is unhelpful, at that point in time, I may
5 stop testimony or restrict testimony of any of these
6 witnesses, but at this point I'm going to allow the
7 testimony, and we'll see where all of this goes.

8 All right. Anything else evidentiary related
9 issues or organizational issues?

10 MR. CARTER: One thing, Your Honor. Before trial
11 we had tried to work out with petitioner a stipulation to
12 the admissibility of all of the exhibits. As Your Honor is
13 well aware, this is a Hague Convention case. There are
14 relaxed evidentiary standards.

15 We suggest -- we are willing to stipulate to the
16 admissibility of all of the exhibits that petitioner has
17 provided to us in their binder. We ask -- we weren't able
18 to work out a stipulation beforehand, so now we would
19 request if petitioner is willing to do that now, go ahead
20 and have everything offered in evidence.

21 If there are some objections, we think for
22 efficiency of the hearing it might make sense to address
23 the objections to particular exhibits at this point in
24 time.

25 THE COURT: All right. Ms. Berg?

1 MS. BERG: I believe, Your Honor, that we can
2 stipulate as to basic foundation.

3 THE COURT: Mm-hmm.

4 MS. BERG: However, and I apologize that we
5 weren't able to accomplish this before trial, but during
6 the month and a half we've had this case, we receive an
7 average of ten e-mails a day from the Robins Kaplan firm,
8 and it became a bit chaotic.

9 I do have a practice to run, and we're also doing
10 this pro se.

11 THE COURT: Mm-hmm.

12 MS. BERG: Unfortunately, we don't have the
13 overhead to cover it like they do. So we have had to limit
14 our ability to respond. We will handle it as best we can.

15 THE COURT: Okay. Well, let's move forward. As
16 we run into issues as we go along, we will resolve them as
17 we reach them. It strikes me that we likely will not have
18 too much in the way of evidentiary objections, given the
19 standards that should be applied. All right?

20 So anything else or I think the parties wish to
21 do a relatively brief opening statement. Is that the plan?

22 MS. BERG: Yes, Your Honor.

23 THE COURT: Okay. All right. Let's proceed.

24 Ms. Berg, the podium does go up and down or the lectern, I
25 should say. There is a button on the side if you want to

1 move it up or down.

2 MS. BERG: Thank you. Thank you. I'm used to
3 reaching like this (indicating).

4 Really, Your Honor, I find it easiest to
5 understand this case in terms of the chronology. The Hague
6 Convention is pretty straightforward. I'm not going to
7 lecture the Court on that. Really what you have before you
8 is going to be solely determinations of credibility around
9 this issue of the alleged domestic violence.

10 One of the things I will preface my comments by
11 saying that I was surprised to learn in my discussions with
12 Mr. Abed Awad about the Egyptian culture, the Muslim
13 culture generally and the concept of marriage. Strict
14 Muslims such as Mr. Aly Saad Aly do not date.

15 So what we call dating, they call marriage, and
16 it is not uncommon to have many marriages, multiple
17 marriages such as we see in this case, while one looks for
18 a life mate, particularly when one is an expatriate from
19 their own country and culture.

20 These two people are both Muslim. They're from
21 different cultures, however. I think it's also important
22 to note when you consider the issues before the Court
23 really resting solely on the question of credibility the
24 recent amended answer or response.

25 All of a sudden, the weeks we've spent trying to

1 verify that Mr. Aly Saad Aly could not possibly have met
2 her at a wedding as she claimed, we have copies of his
3 passport to show he was not in the country. We have spent
4 countless hours trying to verify that fact. Now she amends
5 her response and says, oops, I'm sorry. I guess I did meet
6 him online.

7 Those are not things one would easily mix up in
8 my book. So you have already some erosion of the
9 credibility of respondent as we go forward. When these
10 parties met in January and immediately visited in Ontario
11 and then commenced their religious married state within a
12 couple of months, I believe they married religiously in May
13 of 2010. They met in January online.

14 They marry in May. She was already married to
15 someone else religiously. She moves to Waterloo, Canada,
16 in Ontario in May 2010, keeping her home here that she
17 owns, renting it out. Our understanding from Mr. Aly Saad
18 Aly is that she generates approximately \$300 a month in
19 additional income between the costs of paying the mortgage
20 on that property and renting it.

21 That money she keeps in a separate account at
22 Wells Fargo. That money never travels to Canada, but she
23 alleges she has been held financial hostage by Mr. Aly Saad
24 Aly. In fact, during the time she was in Ontario, she who
25 has an American passport traveled regularly to New York

1 state to work at a hospital.

2 Her salary from that hospital was deposited in a
3 separate bank account in New York state. Now she has got
4 two bank accounts, neither of which Mr. Aly Saad Aly has
5 access to, where funds are being deposited. Yet they
6 assert, Mr. Edleson asserts there is clear evidence of
7 financial coercion here. The fact couldn't be farther from
8 the truth.

9 We have the e-mails and text exchanges between
10 the parties where they refer to each other lovingly. Yes,
11 that happens in situations where there is domestic abuse,
12 but this is a smart woman. This is a registered nurse.
13 This is somebody who probably knows better than any of the
14 women who are sitting before you in their support staff
15 roles, simply because she is trained as a nurse, what to do
16 if there is domestic violence or injury.

17 She never once -- let me rephrase that. One
18 occasion, the one occasion when the police officers
19 observed she was alleging her fingers were broken, but they
20 were noticing her using her hands to pack a suitcase that
21 she understood she had the right to file a charge of
22 domestic violence, but they didn't believe any domestic
23 violence had occurred.

24 The two police officers that observed the setting
25 in the home, that's the one time she went and filed a

1 complaint alleging domestic violence. All of the other
2 allegations, and there are many of them. There are
3 allegations in the OFP that was never served, filed in
4 Anoka. There is allegations in Mr. Edleson's report that
5 are not recounted in any other police reports or medical
6 reports.

7 What's most interesting is, I believe it was
8 on -- let's see. On April 25th, she alleges the child was
9 thrown across the room by Mr. Aly Saad Aly. The next day,
10 that child was seen in a medical facility because of the
11 genetic problems she has that has been followed since
12 birth.

13 There is the mother and the child are sitting in
14 a doctor's office. No concern is expressed by this
15 registered nurse about whether or not this baby was injured
16 when she was allegedly thrown across the floor by her
17 father. They ask her in that medical visit if there is any
18 problems in the family, any family conflict problems.
19 Nothing is checked off.

20 So frankly, Your Honor, this is going to be
21 solely on credibility. I want you to look with great
22 scrutiny and skepticism on the report of Mr. Edleson. We
23 know he's got an international campaign going on here, and
24 it's very important for him to show up in each one of these
25 cases for free.

1 He writes essentially the same affidavit in each
2 one. He cites the same research in each one. Each one is
3 helping build his resume with the Hague Convention, with
4 the UN, with the State Department. We know what his
5 motivations are, and we would ask Your Honor to take into
6 consideration all of that as you consider the facts heard
7 before you.

8 THE COURT: Thank you, Ms. Berg.

9 Go ahead, Mr. Carter, when you're ready.

10 MR. CARTER: Thank you, Your Honor. Good
11 morning. With the Court's permission, we're sensitive to
12 the privacy of the child involved, but with the Court's
13 permission we will refer to her by her first name.

14 THE COURT: Very well.

15 MR. CARTER: This case is about a child,
16 Princess. In evaluating the case about the child, two main
17 issues are before the Court. First, is Princess Hafsa's
18 habitual residence Canada or the United States, and second,
19 whether returning her to Canada would expose her to a grave
20 risk of physical or psychological harm or an otherwise
21 intolerable situation.

22 Now, the evidence that will be presented to the
23 Court will show that Princess's habitual residence is the
24 United States, and it will also show that returning her to
25 Canada will expose her to a grave risk of physical or

1 psychological harm. I would like to look at the specific
2 evidence supporting each of these two conclusions, but
3 first I will briefly discuss the parties and their
4 relationship.

5 Ms. Aden is Somali. In 1999, speaking little
6 English, she immigrated to Minnesota. She learned English
7 and put herself through school, eventually becoming a
8 nurse. She became an American citizen. She met petitioner
9 online on a Muslim dating web site and visited him in
10 February of 2010.

11 They decided to get married, and in May 2010,
12 they were married in a religious ceremony. Ms. Aden then
13 began staying with petitioner in Kitchener, Ontario,
14 Canada, and later in 2011, they were married in a legally
15 binding civil ceremony.

16 Now, the parties approached marriage from
17 drastically different scenarios. Ms. Aden viewed marriage
18 as a serious commitment and intended to begin a family with
19 petitioner. Now, Ms. Berg has mentioned Ms. Aden's
20 previous marriage.

21 Ms. Aden will testify that she was divorced from
22 her previous husband in Kenya in 2008, well before she met
23 petitioner, and only had to seek a divorce in Minnesota to
24 verify that divorce in a foreign country later in 2010.

25 Now, petitioner on the other hand has been

1 married at least five times and is an admitted bigamist.
2 Ms. Aden knew of only one of these marriages when she went
3 to Kitchener in May of 2010. Petitioner's own expert
4 witness will explain that petitioner believes it to be a
5 grave mortal sin to sleep with a woman outside of marriage.
6 So rather than committing that sin or abstaining,
7 petitioner serially marries women so he can sleep with
8 them.

9 Now, let's turn to the evidence supporting the
10 conclusion that returning Princess to Canada would expose
11 her to a grave risk of harm or an otherwise intolerable
12 situation. Ms. Aden and petitioner did not have a happy
13 marriage, in spite of the few chat messages. In fact,
14 throughout their time together, petitioner engaged in a
15 pattern of emotional and psychological abuse of both
16 Ms. Aden and Princess.

17 He also engaged in physical abuse. Petitioner's
18 previous marriages and his false representation that he was
19 still married to an Egyptian woman were major sources of
20 conflict in the marriage, conflict that often ended in
21 petitioner assaulting Ms. Aden and Princess.

22 Another trigger of petitioner's abuse was
23 Ms. Aden's attempts to end their abusive relationship, and
24 that's exactly what triggered the incident of abuse against
25 Ms. Aden's and Princess on April 25th, 2012, a fight that

1 culminated when petitioner threw his eight-month-old
2 daughter across the room onto the floor.

3 After petitioner threw his infant daughter,
4 Ms. Aden immediately went to the baby and using her
5 training as a nurse examined Princess for injuries. She
6 also examined Princess hourly throughout the night.

7 Thankfully, Princess wasn't injured.

8 After the baby and petitioner went to bed,
9 Ms. Aden gathered her courage, packed a few bags and
10 secreted them in a storage room down the hall from
11 petitioner's apartment. When the baby awoke, Ms. Aden took
12 her to a previously scheduled doctor's appointment, and
13 after that appointment, she drove home to Minnesota.

14 The April 25th assault was not the only time that
15 petitioner physically abused Ms. Aden. His propensity to
16 abuse is demonstrated by more than five assaults during
17 that short time together. On February 27th, 2011, for
18 example, Ms. Aden told petitioner that she was going to
19 leave him.

20 The fight turned violent. Petitioner hit her and
21 threw her to the floor and kneed her in the stomach. She
22 was three months pregnant. In a direct attack against the
23 child, petitioner told Ms. Aden that he wanted the baby
24 aborted. Petitioner grabbed all the phones in the
25 apartment to keep Ms. Aden from calling the police, and

1 petitioner himself eventually called the police claiming
2 that Ms. Aden threatened him with a knife.

3 Now you will see, Your Honor, the police report
4 regarding this incident, and you will see how it describes
5 how petitioner stumbled over questioning about the knife,
6 how he could not describe the knife and how he, quotes,
7 "Pretended to look for the knife through kitchen drawers."

8 Now, Ms. Aden went to the hospital after the
9 attack, and the Court will see medical records documenting
10 her injuries. The reports will show five bruises on her
11 arm where he grabbed her, and the report will show more
12 bruises on her upper arm and shoulder where he also grabbed
13 her.

14 Now, Ms. Aden had badly swollen fingers, and the
15 records will report how the doctor saw fit to x-ray these
16 swollen fingers in spite of the fact that Ms. Aden was
17 pregnant at the time. The report also documents Ms. Aden's
18 statements that she was experiencing cramping from the
19 assault.

20 Now the Court will also hear testimony describing
21 more incidents of petitioner's abuse, namely when
22 petitioner assaulted Ms. Aden in July of 2011 when she was
23 nine months pregnant and when he assaulted her in early
24 fall 2010, just months after Ms. Aden began staying with
25 petitioner.

1 Petitioner's pattern of abuse also has
2 psychological and emotional components. Petitioner would
3 tell Ms. Aden that she was nothing but a woman nurse with
4 no intelligence and that he could buy five women just like
5 her in Egypt for ten cents. He controlled the family
6 finances. He isolated her from family and friends, and he
7 would take her passport with him when he went to school
8 during the day.

9 Petitioner monitored Ms. Aden's e-mails, and when
10 she returned home to Minnesota, he broke into her e-mail
11 account and deleted relevant e-mails and instant message
12 chats. He even logged into her Facebook and Skype accounts
13 and pretended to be her to keep tabs on her.

14 Ms. Aden isn't the only victim of petitioner's
15 abuse. Nora Roundtree, petitioner's former wife, will
16 testify that petitioner abused her in a pattern of abuse
17 that is nearly identical to that suffered by Ms. Aden and
18 Princess.

19 In one assault, petitioner punched Ms. Roundtree
20 in the forehead at 3:00 a.m. because she refused to sleep
21 with him, and as he has with Ms. Aden, petitioner has even
22 spoken favorably about female genital mutilation with
23 Ms. Roundtree. Ms. Roundtree will testify that she would
24 fear for her child's safety if she were in the custody of
25 petitioner.

1 Petitioner's misogynistic attitude toward women
2 is consistent with the abuse described above. He believes
3 women shouldn't work. He believes they shouldn't be
4 educated. He believes that it is shameful to have a
5 daughter because that daughter might get pregnant outside
6 of marriage.

7 In fact, as I mentioned, petitioner has stated
8 that he favors having girls undergo female genital
9 mutilation, and he wants to have that procedure done on
10 Princess. He has even articulated a specific plan to have
11 her circumcised as they pass through Egypt during the
12 pilgrimage to Mecca.

13 Thus, the evidence will establish that returning
14 Princess to Canada would expose her to a grave risk of
15 psychological or physical harm or an otherwise intolerable
16 situation. I would like to move on to the second main
17 issue now: Princess's habitual residence. It was and is
18 the United States.

19 Ms. Aden was not a resident of Canada. She was
20 always a visitor in Canada, merely staying with petitioner.
21 She is an American citizen, and petitioner, an Egyptian,
22 was only in Canada to pursue his studies there. In fact,
23 the two planned on returning to Minnesota when petitioner
24 finished his studies.

25 While staying in Canada, Ms. Aden worked as a

1 nurse in Buffalo, New York. She even rented out her room
2 there. She had a New York driver's license and bank
3 accounts in both New York and Minnesota. She maintained
4 contacts with Minnesota, with her mosque, with her family
5 and friends, with community organizations.

6 She owned her town home in Minnesota and stored
7 furniture there while she was staying in Canada and
8 Buffalo. When in Kitchener, Ms. Aden never really
9 established permanency or considered it her home. She will
10 testify that she basically lived out of a couple of bags,
11 bouncing back and forth between petitioner's apartment, her
12 apartment in Buffalo and her cousin's in Kitchener where
13 she would go to flee the abuse.

14 After Ms. Aden got pregnant, petitioner and
15 Ms. Aden initially planned on having the baby in Minnesota
16 where Ms. Aden had a support network of friends and
17 extended family. When petitioner could not get a visa to
18 come into the United States because he had a history of
19 illegally being in the country, they decided to have the
20 baby in Buffalo, New York, closer to Kitchener.

21 All of Princess's prenatal care occurred in
22 Buffalo, and the C section was scheduled there, but when
23 Ms. Aden went into labor a few days before the scheduled C
24 section, she wasn't able to make the trip to Buffalo and
25 had to have the baby in Canada.

1 After Princess was born, petitioner and Ms. Aden
2 obtained a certificate of birth abroad from the United
3 States. Princess is an American citizen. She has an
4 American Social Security number and an American Social
5 Security card, and she has an American passport. Minnesota
6 was and is Ms. Aden's and Princess's home.

7 This point is borne out by how quickly she and
8 Princess settled back into Minnesota. In short order,
9 Ms. Aden found a job, moved back into her town home and got
10 Princess into a day-care. She reconnected with family and
11 friends that petitioner had isolated her from.

12 Princess is now fourteen months old and has been
13 in Minnesota since she was eight months old. Arguably,
14 these months have been the most important of her
15 development thus far. From Princess's perspective,
16 Minnesota was and is her habitual residence.

17 I would like to address one final issue, Your
18 Honor. As is often true in cases of domestic violence, the
19 credibility of the parties is at the forefront. Ms. Berg
20 talked a little bit about Ms. Aden's explanation of how she
21 met petitioner.

22 She will testify and explain to the Court why she
23 initially said that they met at a marriage -- at a wedding,
24 why she was ashamed of that and later decided that she
25 needed to correct it. Now, let's take a look at what

1 petitioner has said.

2 On June 5th, 2012, over a month after Ms. Aden
3 and Princess left, returned home to Minnesota, petitioner
4 called 911. He called the Canadian police, and he
5 concocted an elaborate lie. He told them that Ms. Aden had
6 left Princess behind when she returned to Minnesota. He
7 told them that Princess was staying with his cousin in
8 Toronto.

9 He told them that he would take the bus to visit
10 Princess once per week and that he would call frequently to
11 check up on them, on the baby. These were all lies, and
12 even when the police caught him in this lie, as is clearly
13 documented in the police report and petitioner admitted
14 that he had lied to the police about Princess being in
15 Canada, he continued to lie to them about other facts.

16 The evidence will also show that he lied to the
17 Canadian family court when he filed his ex parte affidavit
18 seeking sole custody of Princess. Petitioner lied to the
19 police. He lied to the court in Canada, and the evidence
20 will make clear that he has lied to this Court.

21 In short, Your Honor, we expect that the evidence
22 will demonstrate that returning Princess to Canada will
23 expose her to a grave risk of psychological or physical
24 harm or an otherwise intolerable situation. And moreover,
25 it will show that Princess's habitual residence is the

1 **MOHAMED ALY SAAD ALY (VIA PHONE),**

2 after having been first duly sworn, was examined and
3 testified as follows:

4 **DIRECT EXAMINATION**

5 BY MS. BERG:

6 Q. Mohamed, state your full name and spell.

7 A. Mohamed Aly Saad Aly. The spelling of my first name is
8 M-o-h-a-m-e-d. The spelling of my last name is A-l-y space
9 S-a-a-d space A-l-y, Aly Saad Aly.

10 Q. Mr. Aly Saad Aly, how did you meet the respondent in
11 this proceeding?

12 A. We have met on a Muslim web site, match web site date
13 called Muslima.com.

14 Q. I want to remind you to speak very slowly.

15 A. We have met --

16 Q. Would you spell the name of the web site?

17 A. It is Muslima, M-u-s-l-i-m-a, dot com.

18 Q. Because we have a court reporter here that has to take
19 down everything you say, so you must speak very slowly.

20 A. Yes, ma'am.

21 Q. Remember my three second rule. You have to count to
22 three before you answer.

23 A. Yes, ma'am.

24 Q. All right. And why did you pursue a relationship with
25 respondent through that web site?

1 A. Well, living in Canada and it was a new environment for
2 me and kind of like a cold weather and being alone and
3 doing a PhD, so I had to look for, for, for a marriage
4 relationship.

When I went, I tried to do it through family. It
didn't work out, so a friend of mine advised me to go and
use this web site. So that's what --

8 Q. Mr. Aly Saad Aly, why are you in Canada?

9 A. I am in Canada because I want to live in Canada. I
10 migrated to Canada from the U. S. in 2007, and I'm
11 considering Canada as my permanent place to live.

12 Q. Have you applied for citizenship?

13 A. Yes, I -- yes, I did. Recently on March 15th, and I
14 have applied for an application for a citizenship, and they
15 replied back to me, and it's being, you know, processed.

16 MS. BERG: Your Honor, you look upset?

17 THE COURT: Just one moment.

18 (Pause.)

20 (In open court.)

21 BY MS BERG.

22 Q Mr Aly Saad Aly what is your employment?

23 A. I am currently pursuing my PhD for almost close to
24 three years in engineering, and I am living on a
25 scholarship basically, which is my source of income or

1 employment, because I am a PhD student/researcher
2 assistant.

3 Q. So you're a teaching assistant/researcher, is that what
4 you said?

5 A. Researcher assistant.

6 Q. I'm going to repeat back because sometimes I have
7 trouble understanding your accent. So you're getting your
8 PhD in engineering, is that correct?

9 A. Yes, ma'am.

10 Q. And you have been in Ontario three years working on
11 your PhD, is that correct?

12 A. In PhD three years, yes. I have been in Ontario since
13 2007.

14 Q. Say that again?

15 A. I have been in Canada since 2007 and in Waterloo,
16 Ontario, since 2010.

17 Q. Since 2010?

18 A. Yes, ma'am.

19 Q. All right. How big is the Muslim community in
20 Waterloo, Ontario?

21 A. Actually, Waterloo has one mosque that is, that is
22 basically one prayer could take 2,000 Muslim people, so for
23 this small city, it's a big community.

24 Q. If I understood you correctly, you said for this small
25 a city, it's a big community?

1 A. Yes.

2 Q. All right. You, do you remember when you first met
3 respondent through the web site?

4 A. I, I, I would say as far as I remember, toward the end
5 of 2009.

6 Q. Okay. And when did you and respondent first meet each
7 other in person?

8 A. In sometime in February 2010, my wife have, fly to
9 Kitchener, Ontario, and we have met in three days weekend.

10 Q. During that meeting, were the two of you chaperoned at
11 all?

12 A. Meaning what?

13 Q. Did you have any third parties present to supervise
14 your interactions?

15 A. Not really. The only time, her cousin that she would
16 stay with when she lived in the same city was with us on a
17 lunch with the second date. She said I want her to meet
18 you so she can assist me in my decision to marry you.

19 So me, Mrs. Amal Aden and Mrs. Asha Aden, Amal's
20 cousin, and we had met over lunch.

21 Q. Okay. Mohamed, you're going way too fast.

22 A. Okay. And second date, my wife have arrived to
23 Kitchener, and me and her and her cousin Mrs. Asha Aden, we
24 have met over lunch because my wife said at the time she
25 want her cousin to see me so she can assist her in her

1 decision for getting married.

2 Q. So the very first time you met her, did you propose
3 marriage?

4 A. Actually, by the end of the three days, we have spent
5 together, I, I, I liked her, and I like, you know, what I
6 have seen, and I ask her to get married. She said let me
7 go back to Minnesota and discuss this with my, with my
8 family in Africa and my friends in Minnesota and come back
9 to you.

10 And when she went back to Minnesota, and
11 actually, we were married religiously over the phone by
12 calling her, her, her family in Somalia sometime in March
13 or beginning of April.

14 Q. And what you're describing is what we would think of as
15 calling the person you're intending to marry's family and
16 requesting permission for the marriage. Is that what you
17 did?

18 A. Well, true. But in Islam, a religious marriage is a
19 symbol. If a man want to marry a woman from a religious
20 point of view, he can call the parents and two witnesses
21 exist and they agree on a dowry, if these conditions are
22 met, the marriage is religiously happen, so that's what we
23 did.

24 Q. All right. And at the time of the phone calls you just
25 described, where was respondent living?

1 A. She was living in an apartment she was rented -- she
2 was renting in Minneapolis. So she called a third party,
3 which is one of her relatives in Minnesota as well was
4 translating because her uncles in Somalia does not speak
5 English.

6 So I was talking and her friend or relative in
7 Minnesota translated for her uncles.

8 Q. Okay. When did respondent first move to Ontario?

9 A. I believe May 15th, 2010.

10 Q. Did you know whether or not she was already married to
11 someone else at the time that you conducted the religious
12 ceremonial marriage?

13 A. At the time she did not tell me. She surprised me like
14 a month or a month and a half later on.

15 Q. And how did she surprise you?

16 A. Well, because she, she, she asked me to come to,
17 because she want -- she was asked to, to make some
18 paperwork, an affidavit and has to be from the embassy,
19 from the American embassy in Toronto.

20 Q. Slow down. Slow down. Slow down. Go ahead.

21 A. I got to know because she want to, to, to make the
22 divorce, and she was applying, as she told me, she was
23 applying for divorce in U. S. So and she was in contact
24 with, with the court in Minnesota to, to make the divorce
25 in Minnesota.

1 And then in order to do this, they ask her to go
2 to the closest U. S. embassy, which was in Toronto, but she
3 need somebody to go, to go with her and witness that she
4 has done so. And then she asked me to go with her to the
5 embassy and to sign that waiver, that paper she applied.
6 It's I have seen.

7 Q. Okay. Mohamed, I'm going to just stop you there.
8 Based on my understanding of the situation, is it correct
9 that respondent explained to you that she married this man
10 in Africa for the purpose of assisting him in coming to the
11 United States, but he failed to follow through with certain
12 expectations, and so she had decided to divorce; is that
13 correct?

14 A. Yes. Actually I was coming to this. She told me
15 basically she made a deal with this guy in Kenya to bring
16 him to here, and he would pay her some money. And she told
17 me as well that he paid her the first payment, which is
18 around \$10,000, but then he failed to continue to provide
19 the papers needed by the court. That's why it didn't work
20 out.

21 Q. And do you recall when the, when she obtained the
22 divorce from this man?

23 A. Well, the only divorce I was aware of, the one she
24 obtained when she was in Canada.

25 Q. Okay. I'm going to get an exhibit now. Mohamed, do

1 you have the book in front of you?

2 A. Yes, ma'am.

3 Q. Turn to section 25.

4 A. Okay. Yes, ma'am. Yes, ma'am. I'm there.

5 Q. All right. To the best of your knowledge, is that the
6 divorce decree that respondent obtained from her apparent
7 husband on September 3, 2010?

8 A. I would believe so.

9 MS. BERG: Your Honor, we move the admission of
10 Exhibit 25.

11 MS. YANG: No objection.

12 THE COURT: 25 is admitted.

13 BY MS. BERG:

14 Q. Mr. Aly Saad Aly, is it against Islam to have more than
15 one spouse?

16 A. For the man or for the woman?

17 Q. Both. For the man, first?

18 A. Well, for the man, the polygamy is accepted in Islam.

19 Q. You're going to have to say it again slower.

20 A. In Islam, the polygamy for the man is accepted in
21 Islam.

22 Q. Polygamy?

23 A. Polygamy. I'm sorry. Polygamy.

24 Q. What about for the woman?

25 A. For the woman, only one husband is allowed.

1 Q. So when you discovered after the religious ceremony
2 with respondent that she was already married to someone
3 else, weren't you upset?

4 A. I was upset, but she started crying and using emotion
5 against me, and then I, you know, I fell for this.

6 Q. When did -- did she take up occupancy in Waterloo on
7 May 15th, 2010?

8 A. Rephrase the question, please.

9 Q. Did she begin living in Waterloo on May 15th, 2010?

10 A. Yes. Yes. She drove from Minnesota to, to, to
11 Kitchener, along with other two members of Somali
12 communities. Drove with her to bring her stuff, the bags.
13 She even brought her covers, the winter covers, the
14 blankets and all this, some kitchen wares and some stuff
15 she used in it.

16 And two of the Somalian men, I believe they are
17 either relatives or part of the community, they drove with
18 her, and they arrived in Kitchener, Ontario, on May 15th,
19 which at that time I got the new apartment, so to live
20 there, me and her.

21 Q. All right. I'm going to ask you again now. I'm going
22 to remind you to speak slowly and try to keep your answers
23 brief. Okay?

24 A. Yes, ma'am. Yes, ma'am.

25 Q. And did the two of you enjoy a loving relationship

1 during that period of time, say from May 15th to the first
2 of the new year, January 2011?

3 A. I, I, I from my side, I loved her so much, and she
4 shared with me the same love. The only problem we had that
5 she was, she get angry quick, and she always, you know,
6 upset and frustrated quick.

7 Q. Was she using birth control at any time during this
8 period?

9 A. From day one. Actually, she started the birth control
10 before she moved because you have to start like a month
11 before.

12 Q. And what did you observe about her behavior during that
13 period of time we just discussed, May 15th, 2010, to
14 January 1, 2011?

15 A. I felt like I live partially in hell because she is,
16 she has a mood swinging. She has anger problems. She
17 start to have some being frustrated quick. She started
18 sometimes screams when we talking in argument. So I was
19 sickening of her behavior with me and the relationship.

20 Q. And did the two of you discuss the mood swings and
21 problems she was having with her temper?

22 A. Yes, we did.

23 Q. And what discussion did you have?

24 A. Well, I even remember one time I went and almost teared
25 and cried and I told her, I love you, dear, and I want our

1 relationship to be better than this, so can both of us have
2 a better happy life. She cried as well, and she said, I
3 don't know what to do, sometime I respond like this without
4 knowing why.

5 And she then by the end of the conversation, we
6 said, and I, and I agreed at the time that that might be,
7 that might be the reason of using the birth control.

8 Q. And to the best of your knowledge, did she stop taking
9 birth control pills?

10 A. She did, and initially, for the first week and so, she
11 did without telling me. And then when I figure out, she
12 said she did this because she think that's the reason of
13 her mood swinging.

14 Q. And to the best of your knowledge, did she become
15 pregnant?

16 A. Well, we -- a month, a month after or even less we
17 learned that she become pregnant.

18 Q. At what time of the year? Can you give us a month when
19 you learned that respondent was pregnant?

20 A. Up to my knowledge, I'm not sure on this, but sometime
21 toward the end of the year, November, December. I'm not
22 sure.

23 Q. All right. And just to keep the chronology going,
24 during the fall of 2010, did you and respondent plan to
25 have a civil wedding ceremony?

1 A. Of course we did, and actually, I want to have this
2 early on, but she told me, I remember now, she told me she
3 cannot because she legally married to other man.

4 Q. Okay. Now I'm going to direct your attention to
5 Exhibit 16.

6 A. Okay.

7 Q. Do you have that in front of you?

8 A. Yes, ma'am.

9 Q. Tell me what Exhibit 16 is.

10 A. It's marriage license.

11 Q. And what is the date of it?

12 A. It's July 6, 2011.

13 Q. All right. Now, you were planning on marrying in the
14 fall of 2010?

15 A. Yes.

16 Q. You had the problem of her having to complete her
17 divorce. Did you make a request or what was required for
18 you to accomplish getting married?

19 A. Well, in order to get married in Canada, we have to, to
20 apply for request. So in order to have request, I was
21 getting what was divorce and outside of the country, then
22 we have to, to, to, to write the letter, go to a lawyer and
23 write a letter to explain why the marriage happened.

24 Q. Okay.

25 A. So --

1 Q. And I'm getting that exhibit, and while I'm waiting for
2 that, what happened to prevent the marriage going forward,
3 then?

4 A. Well, there is two reasons. First, her, her, she was
5 not legally divorced yet. Second, she broke her ankle
6 while she was in Buffalo, which was one month after she
7 start her work in Buffalo, the nurse on weekends.

8 Q. Now, while I'm waiting for that exhibit, I'll just ask
9 you a couple more questions. When did respondent start
10 working in Buffalo?

11 A. As far as I remember, I'm not sure. Maybe sometime in
12 September, October. I'm not actually sure, but sometime
13 around this.

14 Q. In 2010?

15 A. Yes, ma'am.

16 Q. So if she moved there on May 15th, 2010, and then she
17 began working sometime in the fall, then she broke her
18 ankle one month, you say, after she started working so she
19 had to stop, is that correct?

20 A. One month, month and a half, two months, I'm not
21 actually sure, but shortly after.

22 Q. Okay. Now, Mohamed, I'm going to direct you to
23 Exhibit 11.

24 A. Yes, ma'am.

25 Q. Would you tell me --

1 A. Again --

2 Q. Would you tell me what Exhibit 11 is?

3 A. Give me a second. This is a letter from me, yes,
4 because -- that is basically to -- we have to apply for the
5 marriage license. Then we have send this letter on in, in,
6 in March to request another marriage, you know, permission
7 from the Canadian government.

8 Q. And is that because your original marriage license
9 expired and was no longer good?

10 A. Exactly. When we applied back in, in, in 2010, we
11 waited more than six months, so we have to apply again.

12 Q. Okay. And that's the marriage license we looked at
13 earlier?

14 A. Yes, ma'am.

15 MS. BERG: Your Honor, I move the admission of, I
16 forget where I am now, Exhibit 11.

17 MS. YANG: No objection.

18 THE COURT: It's admitted, and then 16 as well?

19 MS. BERG: Yes, Your Honor. I'm sorry.

20 MS. YANG: No objection as well.

21 THE COURT: They both are admitted.

22 BY MS. BERG:

23 Q. Now, in October of 2010, did respondent leave and come
24 or go to Toronto without discussing it with you ahead of
25 time?

1 A. I don't remember the exact date, but she did this, yes,
2 around this time.

3 Q. Well, how was she able to do that without you knowing?
4 Didn't you notice the money being used to purchase plane
5 tickets?

6 A. She was using her own money so --

7 Q. I'm sorry?

8 A. She was, she was using her own money.

9 Q. Okay. Do you share any joint accounts with respondent?

10 A. No. The only bank or joint bank account we share, the
11 one in Canada here in TD Canada Trust Bank.

12 Q. Say again the name of the bank?

13 A. TD Canada Trust.

14 Q. CT?

15 A. TD, T, as in Tom, D, as in David, Canada Trust.

16 Q. Turning your attention to Exhibit 23, do you have the
17 Exhibit 23 in front of you?

18 A. Yes, ma'am.

19 Q. And tell me what Exhibit 23 is?

20 A. This is a letter from the bank saying to whom it
21 concern, this confirms that Mohamed Aly Saad Aly made an
22 account joint with Amal Aden on September 2nd, 2010.

23 Q. Did respondent ever make her accounts in Buffalo joint
24 with you?

25 A. No.

1 Q. What about the account in Minnesota where she deposited
2 her rent proceeds?

3 A. Are you asking me if she have joint with the one in
4 Minnesota?

5 Q. Yes.

6 A. I was never joint with Ms. Amal Aden with any American
7 account.

8 Q. Okay. Do you recall discussions with her about the
9 rental of her town home and how much it cost to pay the
10 mortgage and what was left afterwards?

11 A. She would voluntarily say this like, you know, in the
12 conversation how much --

13 Q. Slow down.

14 A. As far as I remember, she voluntarily mentioned this to
15 me that she -- the difference between the mortgage and the
16 rent she get in of the tenant is around \$300.

17 Q. Around \$300?

18 A. Yes, difference.

19 Q. Now, so in the fall of 2010 when she went to Toronto,
20 how long did she stay?

21 A. I believe around a week.

22 Q. Okay. And were you surprised?

23 A. Of course. I was, you know, something like this has
24 not really happening in my family or my culture, but, you
25 know, previously I had a problem with her with the mood

1 swinging and anger and all this, so it just adds to the
2 list.

3 Q. Let me ask you now. Were you aware of her ever seeking
4 the help of a psychiatrist or psychologist?

5 A. At one point in time when we discuss a solution of her
6 anger and problems, you know, her, her, her family and my
7 mother suggest to either be treated, you know, by the Koran
8 or by going to psychiatric.

9 Q. I'm sorry. I'm going to repeat that. Were you saying
10 by the Koran?

11 A. Yes, ma'am.

12 Q. Or by seeing a psychologist or psychiatrist of some
13 sort?

14 A. Yes, ma'am.

15 Q. Do you know whether she ever sought any help?

16 A. Actually, me and her, we went twice to a mosque in
17 Toronto so an Imam can recite some Koran for her to see if
18 she has any like, any issues and stuff, but the Imam
19 reciting the Koran and different verses --

20 Q. Say that last part, Mohamed, say the last part again
21 slowly.

22 A. Me and my wife went to Toronto twice to a mosque, when
23 the Imam is reciting the Koran on her, and she is
24 listening, and so to see if this can cure her or this can
25 try to make it better. After two times when that did not

1 improve anything, we stopped going.

2 So when I asked her to go seek any professional
3 help, she is a nurse, and she know better, she keep
4 delaying and delaying it. At one time she said, no, I'm
5 doing something, but I don't have to tell you. She show
6 me. She forwarded an e-mail that she had sent initially to
7 a psychiatric.

8 Q. I'm now going to show you Exhibit 35.

9 A. Yes, ma'am. Yes, ma'am.

10 Q. Do you have it in front of you?

11 A. Yes, ma'am.

12 Q. And do you recognize that exhibit?

13 A. Yes, ma'am.

14 Q. What is it?

15 A. This is an e-mail forward from Amal to me, showing an
16 initial e-mail from Amal to a psychiatric called Roberta
17 McKay and her responding back and saying, you know, how
18 much is charged and stuff.

19 Q. Okay. Do you know if she ever met with that
20 individual?

21 A. I have no idea.

22 Q. Now let's see. When did you learn that she was
23 pregnant?

24 A. Around November, December, 2010. I'm not sure of exact
25 date.

1 Q. Okay. Now, you're aware that respondent has alleged
2 some abuse of her occurred in January of 2011, is that
3 correct?

4 A. Yes.

5 Q. Let me get to the police report. Turning your
6 attention to Exhibit 20 --

7 A. Okay. Yes, ma'am.

8 Q. -- do you have that in front of you?

9 A. Yes, ma'am.

10 Q. First, I'm showing you some e-mails. Tell me about
11 these e-mails.

12 A. Okay. Yes. This is, the first time I called the
13 police was, once I came home, I couldn't find my wife, and
14 I couldn't find her suitcase, and along with this, I
15 couldn't find my backpack, which contains my travel
16 documents like passport and landing immigrant, you know,
17 immigration lands for Canada, you know, some Social
18 Security papers and stuff and very important things.

19 So I got freaked out, and the first thing that
20 happened to me, I didn't know if she took it, somebody else
21 came into the apartment because it's very important
22 documents for me. So I called the police, and I have
23 reported my documents missing.

24 Q. All right. Stop, Mohamed.

25 THE COURT: Is he referring -- are you referring

1 to your travel documents or her travel documents?

2 THE WITNESS: Mine, sir.

3 THE COURT: Okay.

4 MS. BERG: I apologize, Your Honor. We didn't
5 Bates stamp these.

6 Can you go to the police report? It's towards
7 the back.

8 BY MS. BERG:

9 Q. Go to the back of Exhibit 20, Mohamed.

10 A. Yes, ma'am.

11 Q. And you'll see two police reports.

12 A. Yes, ma'am.

13 Q. The one that's got a lot of things blanked out, ignore
14 that.

15 A. Okay.

16 Q. And go to the second one?

17 A. Which is the last one?

18 Q. Yes. And that says in the narrative at the bottom, on
19 January 17th, Officer or Constable, I guess it would be,
20 Lukasik, L-u-k-a-s-i-k.

21 A. Mm-hmm, yes, ma'am.

22 Q. Is this the incident in which you were referring to
23 when you were describing the earlier e-mails?

24 A. Yes, ma'am.

25 Q. Now next -- so she returned eventually, is that

1 correct?

2 A. Yes, ma'am.

3 Q. She was staying at her cousin's?

4 A. Yes, ma'am.

5 Q. And your daughter wasn't born yet?

6 A. No.

7 Q. Now, then later on in February of 2011, and that would
8 be the police report that was just before the one we were
9 discussing --

10 A. Yes.

11 Q. -- which has a lot of things blacked out --

12 A. Yes, ma'am.

13 Q. -- is this the incident where you say she took a knife
14 and was threatening to kill herself or stab her belly?

15 A. Yes, ma'am.

16 Q. And have you read this police report?

17 A. Yes, ma'am.

18 Q. And do you agree with what the police officers wrote at
19 least about you?

20 A. Not really. Not really.

21 Q. Why? What's different?

22 A. Well, of the struggling or describing the knife or
23 finding the knife. I told them she had the knife and it
24 might be among the kitchen drawer with the knife, and I
25 described the knife. I said it's a big knife that usually

1 cuts chicken or meat or something, you know.

2 Q. Okay. In another copy of this report supplied to us by
3 respondent was the portion of the police report where they
4 blacked out all your information and included her
5 information, do you recall reading that?

6 A. Yes, ma'am.

7 Q. And I'll ask Lilo. Would you see if we can get an
8 exhibit number and which one that is so we can refer to it
9 for the record.

10 In effect, the police didn't believe either one
11 of you in this incident, is that correct?

12 A. Yes. As far as I know, yes.

13 Q. All right. And it was after this incident that
14 respondent was seen at the Domestic Violence Center in
15 Waterloo, is that correct?

16 A. According to the report, yes. I didn't know until this
17 week because I received this one week ago.

18 Q. All right. And she apparently made these reports but
19 then went and resumed your marriage, is that correct?

20 A. True, because I didn't know anything about these
21 reports.

22 Q. Okay. Then it was after these two incidents that the
23 exhibit we just discussed, 11, which was the letter
24 requesting a marriage license, the two of you decided to
25 proceed with a civil marriage, is that right?

1 A. Yes, ma'am.

2 Q. I'm just trying to get the time line together.

3 A. Yes, ma'am.

4 Q. The complete police report will be found at
5 Respondent's Exhibit 21, just so that the Court is aware.
6 Well, it's not even complete there. Let's see.

7 No. This is the other version. This is
8 respondent's version. So, Your Honor, you're going to have
9 to kind of piece the two together. We couldn't get a
10 complete copy. Everyone's privacy is being protected.

11 MS. YANG: Your Honor, very briefly. If counsel
12 would like to refer to the complete set of three reports,
13 that can be found in RTX 75, I believe.

14 MS. BERG: Fine.

15 THE COURT: All right.

16 BY MS. BERG:

17 Q. So you go ahead and get married in March of 2011, and
18 then -- I'm sorry. You make the request to get married in
19 March of 2011, and the two of you actually married on July
20 6th, 2011, is that correct?

21 A. Yes, ma'am.

22 Q. All right. Now, when was your daughter born?

23 A. August 27th, 2011.

24 Q. All right. Shortly before her birth, did respondent
25 ask you to write a check?

1 A. Yes. She quit working I believe in July to, to, to
2 have a break before she delivered, and she want me -- she
3 wrote a check to me so I can, you know, go and cash it and
4 send it to, to, to -- she called some organization which
5 she used to send the money to Africa to her mother called
6 AMOexpress.com.

7 So she took that representative to the phone, and
8 I went and cashed this check and give this person the
9 money.

10 Q. All right. Now was it Ms. or respondent's practice to
11 send money to her family regularly?

12 A. As I was being told before marriage, she said to me
13 that she, she, she along the whole ten years she lived in
14 Minnesota she was sending money to her mother in Kenya, as
15 her stepfather in Canada does not care for them
16 financially.

17 So she told me that she used to send between
18 1,000, \$2,000 monthly. When she moved here, the reason she
19 insisted to go back to work is to do this because I
20 couldn't afford as a student. As far as she has told me
21 again, she has continued to pay like \$2,000 or as much
22 money to send to her mother in Africa.

23 Q. Now you read the response to the petition in which she
24 alleged and doctor or Mr. Edleson allege that you exerted
25 coercive control over her finances. Did you read that?

1 A. Yes, I did, ma'am.

2 Q. Did you have any control over respondent's money?

3 A. Not really. Mrs. Aden is a very strong person. She
4 would not allow anybody to do so to herself.

5 Q. You're going to have to repeat that and talk slower.

6 A. No, ma'am. As far as I'm concerned, Mrs. Aden is a
7 very strong person. She would not allow any person to do
8 that to herself.

9 Q. All right. Did you take her passport with you to work
10 each day?

11 A. No, I did not, ma'am.

12 Q. And in fact, was she traveling to the United States on
13 a regular basis to her own employment?

14 A. Yes. In the weekends, she travels.

15 Q. Okay.

16 A. Sometimes she has an appointment, you know, as well as
17 she travels, so --

18 Q. So is it true that she could not travel, that you
19 effectively isolated her and held her hostage?

20 A. No, that is not true.

21 Q. Now, let's see. Once Princess was born, did things
22 change?

23 A. I would say dramatically changed than before.

24 Q. How?

25 A. Like the mood, the mood swinging is become way less.

1 The anger problem become way less. She get busy with her,
2 with her, with the girl. I get busy. We have something
3 coming both we love and adore, so we were so excited about
4 having Hafsa, Princess Hafsa.

5 Q. We're just going to refer to her as Princess for the
6 record.

7 A. Princess. I'm sorry.

8 Q. Okay. And she received not only a Canadian birth
9 certificate, but respondent also registered her for the
10 purpose of receiving an American birth certificate, is that
11 correct?

12 A. Yes, ma'am.

13 Q. Did you in any way acquiesce or agree that the habitual
14 place of residence for your daughter would be in a place
15 other than in Canada?

16 A. No, I myself wouldn't accept anyplace than Canada for
17 me and my daughter.

18 Q. Am I correct in understanding then from the time of her
19 birth on August 27th, 2011, until the time that we don't
20 really know when she arrived, but let's say the 1st of June
21 of 2011, that she lived in Canada with you as her father?

22 A. Yes. Yes.

23 Q. Now, you heard counsel for respondent allege that she
24 had no intention of establishing a residence in Canada, did
25 you not?

1 A. That's not true, ma'am.

2 Q. Why did she maintain her real estate in Minnesota if
3 she was going to be living in Canada?

4 A. It bring her \$300 of income every month. Why not?

5 Q. All right. Now, did you read in her verified petition
6 and the allegations in Jeff Edleson's report that she
7 alleges a brutal beating by you in April of 2011 in which
8 you threw Princess across the room?

9 A. I did read it, ma'am.

10 THE COURT: What? What date?

11 MS. BERG: April 2012, I'm sorry. April 25th.

12 BY MS. BERG:

13 Q. Did that ever happen?

14 A. Of course not.

15 Q. Tell us about the medical condition of Princess.

16 A. As far as I know, she is a healthy kid, except we have
17 noticed that she has some extra hair in her private areas.
18 So me and her went to her pediatrician, which every time
19 she has an appointment, we both go, and she said that might
20 be unbalance of the hormones.

21 So I was told by the doctor, her pediatrician, to
22 go and she might need some scans, bone scans to see if her
23 bones is growing with the right proportion of her age.
24 That's all I know.

25 Q. And attached to your verified petition was the medical

1 reports generated by a medical visit on April 26th, is that
2 correct?

3 A. Yes, ma'am.

4 Q. And I believe they describe Princess as -- they wanted
5 to rule out precocious adolescent or pubescence I guess is
6 the word. Does that sound right?

7 A. Yes, ma'am.

8 Q. All right. Did you look over those medical records?

9 A. Yes, ma'am, I did.

10 Q. Anywhere in those records does respondent suggest to
11 the physicians that the child was injured the previous
12 night?

13 A. Not as far as my knowledge.

14 Q. Does Princess bruise easily?

15 A. No. No. She is a happy kid. So, I mean, along the
16 time that she lived with us, she has never bruised.

17 Q. And so I'm just trying to imagine how a physician could
18 examine her the day after being thrown across the room and
19 not notice any injury.

20 A. To me, I was shocked and surprised. How would a child
21 eight months be, you know, month old being thrown around
22 the room and not having any brain injury or be bruised. I
23 can't just imagine. I cry when I hear such a thing.

24 Q. Now, Mohamed, and now respondent is a registered nurse.
25 Wouldn't you think that she would have mentioned to the

1 doctor this assault and wanting the doctor to rule out any
2 possible injury?

3 A. I would imagine she would do so, and also I would
4 imagine she would take her to emergency right away.

5 Q. So after that doctor's visit on April 26th, what
6 happened?

7 A. The next day, the same day she told me that she is
8 having a scan, McMaster --

9 Q. Mohamed, slow down. She went to where?

10 A. McMaster University Hospital.

11 Q. McMaster?

12 A. Yes, which is in Hamilton city, Ontario.

13 Q. Okay.

14 A. And she told me that she needed to go, her pediatrician
15 advise that she needed to go make a scan in this hospital
16 because most of the two hospitals we have does not have the
17 capability or she has to wait for longer time. So that the
18 closest one, McMaster in Hamilton which is almost an hour,
19 hour far.

20 And at the time, you know, we planned to go
21 together, but because I have invited some people over and
22 that the same day, she said don't worry. I was going to
23 cancel the invitation, but she said no. No. No. You can
24 go and have fun with your friends, and I go and come back.

25 Q. Okay. Slow down. So she told you she was going to a

1 doctor's appointment with Princess, right?

2 A. Yes, ma'am.

3 Q. And you said earlier that normally you went to these
4 appointments with her. Why didn't you go this time?

5 A. I went to her pediatrician which is in Cambridge city,
6 which is, you know, ten minutes away every time except that
7 visit to McMaster Hamilton which is arranged, and I was
8 going to go with her, but, you know, I accidentally
9 arranged a gather with my friends to have a dinner in my
10 house at the same day.

11 The moment I told my wife, okay, no, when I got
12 to know, she remind me, I said don't worry about the
13 invitation. I go with you, but surprisingly she said no.
14 Don't need to. I am fine. I will be okay. I wish I went
15 with her, but I was convinced by her.

16 Q. Okay. Now, look at your Exhibit 28 and turn to page
17 48.

18 A. One second, please.

19 Q. Exhibit 28, down in the bottom right-hand corner you
20 will see a bunch of numbers. Go to 48.

21 A. Yes, I see 28 with a check, I believe.

22 Q. Right.

23 A. Yes.

24 Q. Is that her checking account?

25 A. Yes, ma'am.

1 Q. And go to page 20 -- I'm sorry -- 49, actually?

2 A. 49?

3 Q. Are you there?

4 A. Yes, ma'am. Give me, give me the page. Yes, ma'am.

5 Q. And do you see that some large withdrawals were made,
6 one on April 26th, 2011 -- I'm sorry -- 2012, in the amount
7 of \$2400 -- I'm sorry. I'm reading. April 27th, that
8 \$2400 was withdrawn. Do you see that?

9 A. Yes.

10 Q. Did you have access to this account?

11 A. No, ma'am, I did not.

12 MS. BERG: Your Honor, I move admission of 28.

13 MS. YANG: No objection.

14 THE COURT: 28 is admitted.

15 BY MS. BERG:

16 Q. Now, when did you first -- were you first able to have
17 contact -- strike that. Let me rephrase it.

18 Did you receive an instant message from
19 respondent on April 28th, 2012, advising you of anything?

20 A. As far as my knowledge, no.

21 Q. I'm sorry?

22 A. As far as my knowledge, no, I did not.

23 Q. Okay. Now, I'm going to direct you to Exhibit 21.

24 A. Okay. Yes, ma'am.

25 Q. Just a minute. I'm getting there. Let's start at --

1 it's sort of difficult to read, Mohamed.

2 A. Okay.

3 Q. But at the bottom right-hand corner, you'll see the
4 page, page number 176. It's got a date over it, so it's
5 kind of hard to read, and this is actually, it looks like
6 text messages between you and respondent starting on April
7 23rd.

8 A. One second please. 176 you said?

9 Q. Yes.

10 A. I see 167, is that correct?

11 Q. No. 176, it's e-mails or text messages on April 23rd.

12 A. Okay. April 23rd. I don't see 176, ma'am.

13 **(Counsel confer.)**

14 THE WITNESS: I see April 21st.

15 BY MS. BERG:

16 Q. April 23rd.

17 A. 23rd. Let me see. The 23rd. I, I, I see April 21st.
18 I don't see April 23rd.

19 Q. Go back a couple more pages. All right. You know
20 what, Mohamed, you're --

21 A. Yes, ma'am.

22 Q. Mohamed?

23 A. Yes, ma'am.

24 Q. Let's go back to that April 21st date. That's a good
25 place to start.

1 A. Okay.

2 Q. And this is -- and it's on Bates stamp page 168.

3 A. '68. Okay.

4 Q. You got it?

5 A. Yes.

6 Q. It starts out, I will try with her when I get there,
7 right?

8 A. Yes.

9 Q. Well, that doesn't make me feel confident you found it.

10 A. I have seen the sentence in a different page. That's
11 why. You said April 23rd, right?

12 Q. Yep. 21.

13 A. Yes. Yes. Yes. I see April 21st, which is, ends up
14 with, I will massage your back and feet when you come back.

15 Q. Well, now, what page are you on?

16 A. 166, according to the printout I have, which is April
17 21st. The last message --

18 Q. Let's see if we can just get on the same page.

19 A. Okay. April 21st, and I see, and the last, you know,
20 the last message saying, I will massage your back and feet
21 when you come back.

22 Q. Okay. Just one second.

23 A. Me saying this.

24 Q. I'm sorry. I was confusing you because 168 on April
25 21st, you say I will try when you get here. Are you there,

1 is that right? It's Exhibit Number -- it's page 168.

2 A. I see 166, 167, and then 169.

3 Q. They're not in order, Mohamed. It's by chronology.

4 A. Oh, I see. I see. I see. So give me a second, then.

5 Give me a second, please. Yes. I see 168, yes. Yes,

6 ma'am.

7 Q. All right. Now let's just keep moving back from 168.

8 All right?

9 A. Okay.

10 Q. Now, the next page --

11 A. I see 176. Now I see it.

12 Q. Now you found 176. I don't want you to go too far.

13 A. Okay. Okay.

14 Q. Just keep paging through.

15 A. Okay.

16 Q. 168.

17 A. I see 168, yes.

18 Q. Okay. And it says, I will try when you get there,
19 right?

20 A. Yes, ma'am.

21 Q. And then as we keep paging through, these are just
22 conversations between you and respondent, right?

23 A. Yes, ma'am.

24 Q. All right. And then let's get up close to the date
25 when she leaves.

1 A. Okay.

2 Q. And that would be -- let's see. Let's go to page 177.

3 A. Okay.

4 Q. From April 25th.

5 A. Yes, ma'am.

6 Q. That looks like a shopping list.

7 A. Yes, ma'am.

8 Q. Is that because you were having people for dinner?

9 A. That's usual shopping. I used to go for shopping.

10 Just give me the list, and I buy what she ask me for.

11 Q. All right. Now, turn to the next page, which is April
12 27th, 12:22 a.m.

13 A. Yes. 177?

14 Q. No. Page 96.

15 A. 96.

16 Q. I don't even understand how these are organized. Okay.
17 There you are.

18 A. 96, I have it.

19 Q. You see the date is April 27th.

20 A. Yes, ma'am.

21 Q. 1:22 a.m.

22 A. 12:22.

23 Q. Right. Why did you send that message?

24 A. I send this message to her to the, to the, to the
25 Canadian telephone that she has, asking her to please call

1 me or reply to my calls because I'm trying to contact her.

2 The whole day she never responds. The only time she
3 respond to me, she says I'm in the parking lot of the
4 hospital and I am breast feeding the child and I will do so
5 on my way back.

6 Q. Okay. So keep going through the pages.

7 A. Okay.

8 Q. I believe our next page -- I'm going to check with Lilo
9 here. I'm not even sure what my next page is.

10 Is the next page the June 21 -- sorry -- June
11 12th date?

12 A. Yes, ma'am.

13 Q. All right. Is that a conversation between you and
14 respondent?

15 A. Yes, ma'am.

16 Q. Okay. When did you first learn she had traveled to
17 Minnesota?

18 A. To Minnesota specifically, I think around sometime when
19 I phoned her relative on the phone.

20 Q. Okay.

21 A. He said she is here, but I understood that she is
22 somewhere, he knows.

23 Q. Now, on June 5th, did you have contact with the
24 Waterloo Police Department?

25 A. Yes, ma'am.

1 MS. BERG: Your Honor, I move admission 22.

2 THE COURT: 22, did you say?

3 MS. BERG: Yes.

4 THE COURT: Any objection?

5 MS. BERG: Is it 21? It's 21 we're looking at.

6 Sorry. Numbers are not my thing.

7 MS. YANG: No objection.

8 THE COURT: 21 is admitted.

9 BY MS. BERG:

10 Q. Now, on June 5th, you contacted the Waterloo Police
11 Department, is that right?

12 A. Yes, ma'am.

13 Q. Why?

14 A. Well, initially, I was, I was contacting the police to
15 report that my car is not in my possession to free my, to
16 free myself from any legal responsibility that could
17 happen. You know, the car could be used in any illegal
18 action.

19 Q. Well, now, why did you do that?

20 A. Well, I know she is angry person, and I know she, she,
21 she, you know, she might do something with the car, and
22 she -- and it is in my name. So maybe a lack of my knowing
23 the law or something, so I just want to be safe legal-wise.

24 Q. Okay. So did you tell the police that your daughter
25 was missing?

1 A. Initially, I did not.

2 Q. Why not?

3 A. Initially, I did not. Well, actually that's because of
4 two reasons. The first reason is, that was out of fear. I
5 didn't want to, to tell, to tell the police that my, my
6 wife, my wife took the child and ran away and get her in
7 trouble, and that might make her angry or upset, and in
8 return, she might not allow me to see my daughter, which I
9 love the most so -- and back then I didn't know my rights
10 toward the child.

11 Q. Okay. Directing your attention to -- I don't know if
12 you have it handy, Mohamed, but I know you've read it.
13 Respondent's Exhibit 75 is that complete police report.

14 A. Yes, ma'am, I have it here.

15 Q. Okay. And those police, those police officers
16 confronted you about lying to them, didn't they?

17 A. Actually, I am the one that admit to them. They did
18 not confirm. I am the one who said when they invite me to
19 the, to the, to their office and they said we have a hard
20 time to find your daughter the address you give us.

21 I said I did a mistake, and I broke in front of
22 them, and I crash, and I said I'm sorry that is a mistake.
23 I didn't want to tell you that my wife took the child for
24 the same reason. I'm afraid. I don't want to put my wife
25 in trouble.

1 Q. Okay. I want to remind you to speak slowly.

2 A. Yes. Should I repeat this again?

3 Q. I think we're okay. Now, what happened after you told
4 the police that your wife had abducted your child from
5 Canada?

6 A. At first, they calmed me down because I was so sad and
7 angry and almost cried and was so nervous. They calm me
8 down and bring me a glass of water, and they keep with my
9 rights of, you know, the child. So, no, she cannot, as a
10 spouse, as a parent, no single parent can take a child and
11 leave without the consent or the knowledge of the other
12 parent.

13 And they teach me as well that I have a right, I
14 have a right to call the next day when she took the child
15 because I did not know this, and then they said don't
16 worry, we will investigate where they're at, and they
17 looked for them, and we will update you.

18 Q. And isn't it a fact that you didn't contact the police
19 for over four weeks after she disappeared?

20 A. Yes.

21 Q. Why?

22 A. Well, the first thing I have done when she did not come
23 back and she didn't answer my phone the first day and
24 second day, I contact her mother in Kenya, and I, I, I --
25 Amal, my wife, she has a pattern of leaving home several

1 times without letting me know, so I went to ask her mom,
2 and again, I was crying and was in very bad situation,
3 especially I was preparing for my proposal for a PhD, and I
4 have lost a wife and child.

5 Her mother told me to give her some time. So
6 having known that her pattern -- I assumed that one of the
7 episodes would happen again, so I give her some time.

8 Q. Okay. Now, I'm going to go through some of the rest of
9 these exhibits because it's getting close to the noon hour,
10 and I think we need to try and move things along?

11 A. Okay.

12 Q. Exhibit 1 is a marriage certificate. Do you see that?

13 A. Exhibit 1? Yes, ma'am.

14 Q. And is it a fact that you obtained in Florida a
15 certificate -- an application to marry a woman named -- I'm
16 just going to spell it.

17 A. Firyuza Gazizova.

18 Q. Slow down. I'm going to spell it, Mohamed.

19 F-i-r-y-u-z-a G-a-z-i-z-o-v-a, is that correct?

20 A. Yes, ma'am.

21 MS. BERG: I move Exhibit 2.

22 THE COURT: Was that 1 or 2?

23 MS. BERG: I'm sorry. 1. I look at the tabs.

24 THE COURT: Any objection?

25 MS. YANG: No objection.

1 THE COURT: 1 is admitted.

2 BY MS. BERG:

3 Q. Exhibit 2, Mohamed, is that the certificate of your
4 divorce from the same woman?

5 A. Yes, ma'am.

6 MS. BERG: Okay. I move Exhibit 2.

7 MS. YANG: No objection.

8 THE COURT: Exhibit 2 is admitted.

9 BY MS. BERG:

10 Q. Exhibit 3, Mohamed, is your marriage registration to
11 Abeer, A-b-e-e-r, Saud, S-a-u-d, Yehia, Y-e-h-i-a, Saud,
12 S-a-u-d, is that correct?

13 A. It's correct. That's the marriage registration with
14 Abeer Saud Yehia Saud.

15 Q. And on the second page of that, what is that document
16 written in Egyptian?

17 A. This is Arabic version of the page previous to this.

18 Q. That's an Egyptian version translation?

19 A. Yes, ma'am. It's an Arabic version, which is the
20 language in Egypt.

21 MS. BERG: Okay. I move Exhibit 3.

22 MS. YANG: No objection.

23 THE COURT: 3 is admitted.

24 MS. BERG: Okay.

25

1 BY MS. BERG:

2 Q. Exhibit 4?

3 MS. YANG: No objection.

4 THE WITNESS: Yes, ma'am.

5 THE COURT: 4 is admitted.

6 MS. BERG: I'll move right through them.

7 Exhibit 4?

8 THE WITNESS: Yes, ma'am.

9 MS. YANG: No objection.

10 THE WITNESS: Yes, ma'am.

11 MS. BERG: Exhibit 5?

12 BY MS. BERG:

13 Q. This is your marriage certificate to Nora Roundtree, is
14 that correct?

15 A. Yes, ma'am.

16 MS. YANG: Your Honor, we're happy to stipulate
17 to the admissibility of the marriage and divorce
18 certificates.

19 MS. BERG: Okay.

20 THE COURT: Very well. And that's through
21 Exhibit 6?

22 MS. BERG: 7, 8.

23 THE COURT: Through 8?

24 MS. BERG: Okay.

25 THE COURT: So 1 through 8 are all admitted.

1 BY MS. BERG:

2 Q. Now, direct your attention to Exhibit 9. Exhibit 9 is
3 further verification that respondent was in fact married at
4 the time that you had your religious ceremony, is that
5 correct?

6 A. Yes, ma'am.

7 Q. Exhibit 10. Tell me what Exhibit 10 is.

8 A. It's Somerside Tax Center letter dated December 28th,
9 2011.

10 Q. Mohamed, repeat what you just said.

11 A. Somerside Tax Center letter dated December 28th, 2011.

12 Q. And in that letter, does respondent state that you are
13 the primary caregiver of the child?

14 A. Yes, ma'am.

15 MS. BERG: I move 10.

16 MS. YANG: No objection.

17 THE COURT: 10 is admitted.

18 MS. BERG: I didn't move 9. I'm sorry.

19 THE COURT: Any objection?

20 MS. YANG: No objection.

21 THE COURT: 9 is admitted.

22 MS. BERG: Did we already do 11? Yes.

23 BY MS. BERG:

24 Q. I turn your attention to Exhibit 12.

25 A. Yes, ma'am.

1 Q. Tell me what that is.

2 A. Letter from respondent to American Consul Office, dated
3 April 20th, 2011.

4 Q. And is that a letter in which she is requesting they
5 give you a visa to attend your daughter's birth?

6 A. Yes, ma'am.

7 Q. Did they do that?

8 A. Do what?

9 Q. Did they grant you the visa?

10 A. No, I was refused.

11 Q. Okay. Is that the reason that the child was born in
12 Ontario?

13 A. That was the reason, you mean?

14 Q. The reason that Princess was born in Ontario rather
15 than in New York?

16 A. Oh, no. No. No. No, that's not really the case.

17 Q. What's the reason?

18 A. First of all for her to deliver in Minnesota, I didn't
19 want this. This was only her idea, and I, I just wanted to
20 be supportive husband, and I said okay. And that's why she
21 convinced me to go and apply for the U. S. visa, and I went
22 and I failed.

23 And then we, we, we come to our original plan,
24 which was Princess to be delivered in Ontario, Canada.

25 Q. Okay.

1 I move 12.

2 MS. YANG: No objection.

3 THE COURT: 12 is admitted.

4 BY MS. BERG:

5 Q. Exhibit 13, Mohamed, you're requesting that your wife
6 be included on the lease for your apartment, is that
7 correct?

8 A. Yes, ma'am.

9 MS. BERG: Okay. I move Exhibit 13.

10 MS. YANG: No objection.

11 THE COURT: Admitted.

12 BY MS. BERG:

13 Q. Exhibit 14 is the joint tax return prepared by you and
14 your wife, is that correct?

15 A. Yes, ma'am.

16 Q. And wife in this instance is referring to respondent,
17 is that correct?

18 A. Spouse, yes, ma'am. Amal Aden, yes.

19 MS. BERG: Okay. I move Exhibit 14.

20 MS. YANG: No objection.

21 THE COURT: 14 is admitted.

22 BY MS. BERG:

23 Q. Exhibit 15 is your child's birth certificate.

24 I believe that's already admitted, but if not, I
25 move it.

1 MS. YANG: No objection.

2 THE COURT: 15 is admitted.

3 BY MS. BERG:

4 Q. Now, directing your attention to Exhibit 17, tell me
5 what this is.

6 A. Marriage license between petitioner and respondent.

7 THE COURT: 17 or 16?

8 MS. BERG: 17.

9 THE WITNESS: Oh, 17 is different than --

10 BY MS. BERG:

11 Q. Yeah. Take a look at 17.

12 A. 17 is order on motion without notice dated June 13,
13 2012.

14 Q. And did you lie to get this order?

15 A. I don't remember I lied.

16 Q. You don't remember if you lied?

17 A. I don't think so I lied. I wrote this in my hand. I
18 did not remember anything is lie there.

19 Q. Okay. What did you write by hand? This is a typed
20 document.

21 A. No. Yes. I mean, I mean whatever the information is
22 entered is, it has no lie as far as my knowledge.

23 Q. Okay. And let's see. This order clearly states that
24 the child was born in Canada and that you, you have
25 asserted the child was wrongfully removed and that you're

1 granted custody?

2 A. Yes, ma'am.

3 Q. All right.

4 I move 17.

5 MS. YANG: No objection.

6 THE COURT: Admitted.

7 BY MS. BERG:

8 Q. Look at Exhibit 18. Tell me what that is.

9 A. That's University of Waterloo student information.

10 Q. And this explains financially how you're living, is
11 that correct?

12 A. Yes, ma'am.

13 Q. And basically, you get a small stipend and then some
14 forgiveness of your fees for your course work, is that
15 right?

16 A. Yes, ma'am.

17 Q. Okay. And turning to Exhibit 19, explain what that is.

18 A. That's Estimated Ontario Trillium Benefits.

19 Q. Is that a Canadian benefit for people with children?

20 A. I believe this is -- because when you have to file, you
21 have to file for me and the spouse and the child.

22 Q. Okay.

23 A. So this portion, I believe, was given to us when we
24 filed the taxes for Princess.

25 MS. BERG: Okay. I move 19.

1 MS. YANG: No objection.

2 THE COURT: 19 is admitted.

3 BY MS. BERG:

4 Q. Now turn your attention to Exhibit 22.

5 A. 22, mm-hmm.

6 Q. This is a letter from John T. W. Yeow, Y-e-o-u?

7 A. Yes.

8 Q. Is he your professor?

9 A. He is my advisor, yes.

10 Q. Okay. And have you had discussions with him about
11 establishing yourself in the Waterloo community?

12 A. Yes, several times.

13 Q. What kind of engineer are you? What do you plan to do?

14 A. I, I, I, my bachelor and master's was electrical
15 engineering, and my PhD currently belong to system design.

16 Q. Stop. Stop. Say that again slowly.

17 A. Okay. My Bachelor Degree and my Master's Degree is in
18 electrical engineering, and my PhD currently is in system
19 design.

20 Q. System design?

21 A. System design engineering. Yes, ma'am.

22 Q. All right. Thank you.

23 A. And my current application is for biological and
24 biomedical applications for something called lab --

25 Q. Lab --

1 A. Lab on chip.

2 Q. L-a-b?

3 A. Yes. On, o-n, chip, c-h-i-p.

4 Q. Okay.

5 I move 22, yeah, 22.

6 MS. YANG: No objection.

7 THE COURT: 22 is admitted.

8 BY MS. BERG:

9 Q. Now, next turn your attention to Exhibit 24. Is this
10 the joint bank account we referred to earlier?

11 A. As far as 24 it's not the bank, ma'am.

12 Q. The statements.

13 A. The statement from my mother, yes.

14 Q. Oh, I'm sorry.

15 A. 23, you mean?

16 Q. Yeah, 23.

17 A. Yes, ma'am.

18 Q. I see a number and I say it. That's your joint bank
19 account, correct?

20 A. Yes, ma'am.

21 Q. Did respondent make any transfers of cash into that
22 account to assist with the household expenses?

23 A. I'm not sure because she could do it as her own because
24 both have a debit card and both has access online, so I
25 don't remember exactly that happening. I mean, it's not

1 sound in my mind, but she could have because she has an
2 access to in and out.

3 Q. Mohamed, are you aware of her ever making any regular
4 deposits to assist with the family bills?

5 A. I do not, I do not, I do not think so in particular.

6 No. No. No.

7 Q. Okay.

8 A. Might be once here and there.

9 MS. BERG: I move, Your Honor, 23.

10 THE COURT: Any objection?

11 MS. YANG: No objection.

12 THE COURT: 23 is admitted.

13 BY MS. BERG:

14 Q. And I direct your attention to 25.

15 Is 25 in? No. That's the judgment and decree.

16 You know, these numbers are off.

17 A. 24, you mean?

18 THE COURT: 25 is admitted.

19 MS. BERG: Is that the divorce decree? These
20 numbers are off, here.

21 Exhibit 25, Your Honor, that is the divorce
22 decree between respondent and her husband, we move that.

23 THE COURT: I think that's already in.

24 MS. BERG: Okay.

25

1 BY MS. BERG:

2 Q. Okay. I'm turning your attention to now Exhibit 24.

3 What is that, Mohamed?

4 A. That's a statement from my mother. Her name is Saadia
5 Mohamed Attia.

6 Q. We'll spell that for the reporter. She is on at 1:30.

7 A. Yes. Well, actually the one in the statement,

8 S-a-a-d-i-a, and then Mohamed, M-o-h-a-m-e-d, and then
9 A-t-t-i-a, and then F-a-r-a-g is her complete name.

10 Q. All right. Now, is your mother able to speak English?

11 A. My mother is illiterate and does not read or write even
12 Arabic. She only speak Arabic.

13 Q. Do you know how this document was prepared?

14 A. Yes. She was talking, and my brother was writing.

15 Q. All right. And is this a product of a phone
16 conversation she had with respondent?

17 A. Yes. I mean, there is phone conversations. There is,
18 you know, I believe so.

19 MS. BERG: All right. I move 24.

20 MS. YANG: No objection.

21 THE COURT: 24 is admitted.

22 MS. BERG: Did we already have 28 in?

23 THE COURT: Yes.

24 MS. BERG: Okay.

25

1 BY MS. BERG:

2 Q. Now, I'm going to direct your attention, I'm going to
3 skip the other two expert reports and direct your attention
4 to 29. Can you tell me what that is, Mohamed?

5 A. It's resident ledger from First Select Equities.

6 Q. And that is in the name of respondent?

7 A. Yes, ma'am, Respondent's Exhibit 29.

8 Q. Is that the documentation regarding the town home that
9 she rents out?

10 A. No. I believe this is the apartment she was, she used
11 to rent.

12 Q. Okay.

13 A. Before she moved.

14 Q. All right. So she was renting an apartment while she
15 was renting out her town home at the time you met her, is
16 that correct?

17 A. Yes. Yes. Yes. She was in apartment.

18 MS. BERG: I move Exhibit 29.

19 MS. YANG: No objection.

20 THE COURT: 29 is admitted.

21 BY MS. BERG:

22 Q. And Exhibit 30 is the lease agreement, which included
23 respondent, for the property in Ontario, is that correct?

24 A. Yes. That's the listing agreement in an apartment we
25 reside in in Kitchener at one time, yes.

1 Q. And are both of you obligated on this lease?

2 A. Yes, ma'am.

3 Q. How long is the lease for?

4 A. A year.

5 Q. Okay.

6 I move Exhibit 30 and then ask you to draw
7 yourself to the attention of 31.

8 MS. YANG: No objection.

9 THE COURT: 30 is admitted.

10 BY MS. BERG:

11 Q. And look at 31.

12 A. Okay, ma'am.

13 Q. Is that when respondent was added to the lease?

14 A. 31 is residential rental agreement term May 2nd,
15 2012-April 30th, 2013. Is that what you're going to?

16 Q. Yes.

17 A. Okay. What's your question here?

18 Q. Is that, again, where respondent joined you in being
19 liable on this lease for the coming year?

20 A. No, ma'am. That's something, that was something that
21 happened and her own tenant and her own house.

22 Q. Oh, I misunderstood. I'm sorry. So this is her tenant
23 agreement?

24 A. Yes. Yes, ma'am.

25 Q. And so she had leased out her house from --

1 A. I mean, according to this is May 2nd, 2012, to April
2 30th, on 2013. That was the renewal. She was renting
3 before as well.

4 Q. I'm sorry. Say that again.

5 A. This period is, I believe, it's a renewal. I mean, she
6 has rented to this person prior to this.

7 Q. Okay. So isn't it odd that she would be leaving you in
8 Canada and establishing herself in Minnesota at the same
9 time she is renting the town home out again?

10 A. Well, from what I understood, she went -- that \$300
11 difference was appealing to her.

12 Q. That makes sense. So she wanted to keep getting that
13 extra \$300?

14 A. Yes. Yes.

15 MS. BERG: All right. I move admission 31.

16 MS. YANG: No objection.

17 THE COURT: 31 is admitted.

18 BY MS. BERG:

19 Q. And since we're not running into objections, I'm just
20 going to skip --

21 Well, Exhibit 32 is the travel arrangements when
22 she, I believe, went to Ontario in 2011. I move that. 33
23 is his passport, which shows he was not in Canada at the
24 time of the alleged wedding where they met.

25 MS. YANG: Your Honor, we will stipulate to admit

1 all petitioner's exhibits.

2 MS. BERG: All right. Thank you.

3 BY MS. BERG:

4 Q. Mr. Aly Saad Aly, is there anything further that you
5 want the Court to know about this situation?

6 A. Yes. If, if, if the honorable judge can allow me to
7 say something, you know, about the relationship.

8 THE COURT: That's fine. Go ahead.

9 THE WITNESS: Yes. From the point that I have
10 been through in this relationship, my wife is, since we
11 got, since we got married, she is always angry, always
12 upset, always she had the mood swinging.

13 And, you know, we, I believe, I believe, I would
14 like to believe at the beginning that was because of the,
15 of the, the, the, the birth control, but after she quit the
16 birth control, the marriage came -- the, the, the baby and
17 the pregnancy came on board, so the same, the same, you
18 know, behavior and same attitude, you know, continued.

19 And even I have to contact my mother to complain
20 and to have her give me advice, and she has contacted my
21 mother as well. We contact her mother, the same thing. We
22 tried all possible avenues by going to the mosque, Koran,
23 you know, seeking some professional help.

24 TELEPHONE OPERATOR: Pardon me, please. This is
25 the AT&T teleconference specialist. I have a Jeffrey

1 Edleson trying to join this conference, but he does not
2 have the correct security code. Do you want to give that
3 out to him?

4 THE COURT: When do you want him?

5 MS. BERG: He's not my witness. I don't want him
6 sitting through the trial. I want the witnesses removed.

7 MS. YANG: He is our witness, and we would like
8 him to be privy to the conversations so that he can
9 understand the testimony of the witnesses on both sides.

10 MS. BERG: Not after he has missed -- I mean, I'm
11 done with my direct.

12 THE COURT: Let's discuss this before we resume
13 again.

14 TELEPHONE OPERATOR: So do not give it to him?

15 THE COURT: Tell him that he will be contacted
16 soon.

17 TELEPHONE OPERATOR: Thank you. I'm leaving now.
18 Thank you.

19 BY MS. BERG:

20 Q. Mohamed?

21 A. Yes, ma'am.

22 Q. The phone call was just interrupted. I think the only
23 thing that matters to this judge that you need to address
24 is habitual residence and whether or not any domestic
25 violence occurred such that would warrant a grave risk of

1 harm established.

2 A. Yes, ma'am. Yes. Yes. Yes. I'm coming to it, yes.

3 Q. You need to come to it more correctly and directly.

4 A. Yes, ma'am. Yes, ma'am. Yes, ma'am. Yes, ma'am. So
5 just one important thing that my wife, she was always
6 frightening me that if the relationship didn't go well, she
7 would disappear and go, and when she was pregnant, she
8 would leave and not allow me to see the child.

9 I didn't know the rights of my child are, and
10 always after we delivered the baby, when she get upset or
11 we have an argument, she say the same. So that created
12 fear inside me and, and, and, and one more thing as well I
13 want to mention. The story is opposite.

14 My, my wife, the one, she was abusive to me. She
15 was, she used the knife against me several times. She used
16 her hand over me several times. She used the cursing and
17 the swearing on me several time, and because I came, my
18 family I was brought up in a family that have a father and
19 mother. We, we, we brought great love to sacrifice
20 whatever it is for our children.

21 So I was sacrificing this just for the sake of
22 seeing the beautiful face of my daughter and to have her
23 raised between a father and mother.

24 Q. Okay. I'm going to stop you there. The word you were
25 using was "sacrificing," right?

1 A. Yes, ma'am.

2 Q. It sounded like "sucking." All right.

3 A. Sorry.

4 Q. Okay. Did you ever threaten, make a phone call in
5 which you threatened to kill her?

6 A. Never happened. Never happened.

7 Q. Did she ever make a phone call to you telling you that
8 you were never going to see your daughter again?

9 A. She did and to my mother as well.

10 MS. BERG: I have nothing further.

11 THE COURT: All right. I assume there is going
12 to be cross-examination?

13 MS. YANG: There is, Your Honor.

14 THE COURT: All right. Let's take our break
15 here. Like I said earlier, I want to just save enough
16 time, if possible. Is 20 minutes too short to grab
17 something to eat or take a quick break?

18 MS. BERG: No. That's fine.

19 MR. SWENSON: That's fine.

20 MR. CARTER: Just to remind the Court, we do have
21 one expert witness, Professor Boyle, who has a time
22 constraint. She needs to leave at two o'clock. We expect
23 that.

24 MS. BERG: Your Honor, I think it would have been
25 courteous to be informed that there was a witness sitting

1 in the courtroom.

2 THE COURT: Well, we didn't talk about that ahead
3 of time, so, you know, it's sometimes done. Sometimes not.
4 We can discuss that later if you wish, but so how long is
5 her testimony?

6 MR. CARTER: 20 minutes.

7 THE COURT: And cross?

8 MS. BERG: Not going to be much.

9 MS. YANG: Cross is about --

10 THE COURT: I'm sorry. Okay. And how long are
11 you anticipating examination of the petitioner?

12 MS. YANG: Cross of petitioner will take probably
13 around 20 to 30 minutes.

14 THE COURT: Okay. Why don't we get back here in
15 about 20 minutes or so. We will wait for everyone, of
16 course. Is that okay, and then we will just continue with
17 the cross-examination then. I think we will have enough
18 time for the expert.

19 MS. BERG: We do have an interpreter coming, too.

20 THE COURT: All right.

21 MS. BERG: Thank you, sir.

22 (Lunch recess taken.)

23

24 (In open court.)

25 THE COURT: You may be seated. Let's continue

1 with cross-examination.

2 MS. BERG: Your Honor, Mohamed is not on the line
3 because we asked him to call his mother and see if she
4 could testify at a different time.

5 THE COURT: Okay.

6 MS. BERG: So let me just e-mail him. Our
7 interpreter is here.

8 MS. YANG: I have some notebooks for the Court.

9 **(Off-the-record discussion.)**

10

11 **(In open court.)**

12 THE COURT: All right. Let's proceed with the
13 cross-examination.

14 MR. CARTER: Your Honor, if I may.

15 THE COURT: Yes.

16 MR. CARTER: There is the outstanding issue of
17 the expert witnesses in the gallery, and we also have
18 Professor Edleson, who is ready to call in.

19 THE COURT: I'm comfortable doing this either
20 way. If you wish to have witnesses present and listening
21 in, that's certainly fine with me unless both sides don't
22 want it.

23 MS. BERG: Your Honor, we oppose particularly
24 Mr. Edleson since he likes to testify from his observations
25 in the courtroom, and he did not participate in or observe

1 the direct examination of Mr. Aly Saad Aly.

2 MR. CARTER: Professor Edleson is an expert
3 witness. It seems quite logical and correct to have him
4 listen in to testimony.

5 THE COURT: I don't think there is a problem in
6 this particular case with having witnesses listen to
7 testimony, so let's just allow this and go ahead.

8 MS. YANG: Thank you, Your Honor.

9

10 **CROSS-EXAMINATION**

11 BY MS. YANG:

12 Q. Mr. Aly Saad Aly, my name is Andrea Yang, and I will be
13 asking you several questions. In connection with some of
14 my questions, I will be referring to several of
15 respondent's exhibits.

16 Do you have in front of you a binder labeled
17 Respondent's Trial Exhibits?

18 A. I have three of them with four of them with different
19 numbers.

20 Q. Do you see a binder with, a binder on the front saying
21 Respondent's Trial Exhibits?

22 A. Yes. Is that with the numbers RTX?

23 Q. Yes.

24 A. Yes. Which one?

25 Q. It's the one with the dividers labeled RTX with

1 corresponding numbers. Do you see that?

2 A. Yes, but there is four of them, so which one of them,
3 which numbers?

4 Q. I'm sorry. There are what of them?

5 A. I see four of them, so which -- I have four binders.
6 Which ones?

7 Q. Well, we'll be referring over the course to several of
8 them, and so it would be helpful for you to have all four
9 of the binders in front of you.

10 A. They are, ma'am.

11 Q. Great. And just so we understand the page numbering
12 system, inside, let's just take one of the binders. You
13 will see that if you flip to the inside of one of these
14 dividers, there are page numbers listed in the middle
15 bottom area of each page.

16 Do you see that?

17 A. Yes, ma'am.

18 Q. And it says RTX, and then there is a number followed by
19 a dash and then another number.

20 A. Yes, for example, RTX 048-001.

21 Q. Right. So the 48, that would correspond with the
22 respondent's exhibit number.

23 A. Mm-hmm (Yes).

24 Q. And then the number that follows the dash, that refers
25 to the page within the exhibit. Does that make sense?

1 A. Yes, ma'am.

2 Q. Great. Mr. Aly Saad Aly, research assistant jobs are
3 only temporary, correct?

4 A. Could you repeat the question, please?

5 Q. Your research assistant job at the University of
6 Waterloo, that is only temporary, correct?

7 A. During my PhD, yes.

8 Q. Dalia Motaleb has been called as a witness in this
9 case. Who is she?

10 A. She is an old friend of mine.

11 Q. Are you romantically involved with her?

12 A. No, ma'am. She is engaged already.

13 Q. During your direct examination, you testified that
14 Ms. Aden went to Toronto and stayed for about a week in
15 October of 2010, correct?

16 A. Yes, ma'am.

17 Q. But actually during that time, she went to Minnesota,
18 didn't she?

19 A. October is a broad month, and I'm not sure exactly what
20 time of October she has done that, went to Toronto, but it
21 was in October.

22 Q. In fact, you actually -- I'm sorry. Go ahead.

23 A. In October itself, even when she went to Minnesota, she
24 went to Minnesota, and it has been like I think less than a
25 week she came back.

1 Q. And in fact, you actually took her to the airport when
2 she went to Minnesota in October 2010, correct?

3 A. Yes. She requested and I comply with it.

4 Q. All right. I want you to turn to, this is your earlier
5 binder used by your attorneys, Petitioner's Exhibit 32.

6 Let me know when you're there.

7 A. Respondent travel document, reservation confirmation?

8 Q. That's correct. It's a Delta flight ticket it looks
9 like.

10 A. Okay.

11 Q. Okay. I want you to turn to, at the bottom of the
12 page, PTX 32-007. Are you there?

13 A. Okay. Yes, but this is dated March 23rd, 2011.

14 Q. No. If you look at PTX 32-007, top of the page, do you
15 see how it says, Monday, October 4th, Delta and --

16 A. No. We are in different, different -- you're referring
17 to Petitioner Exhibit 32, respondent travel reservation
18 confirmation.

19 Q. Which binder are you referring to, Mr. Aly Saad Aly?

20 A. The green one which was given to me by my attorney.

21 Q. What's the labeling on the front of the binder?

22 A. There is no label on the front of the binder, but there
23 is the first page saying the list of, petitioner amended
24 exhibit lists.

25 Q. That's fine. We'll just, we'll move on.

1 A. Okay.

2 Q. Mr. Aly Saad Aly, you had a dinner party at your home
3 on April 26th, 2011, is that correct?

4 A. It was a Thursday. That's what I most remember, the
5 date.

6 Q. Right. That was your testimony earlier. That was also
7 the day that your wife left, correct?

8 A. Yes.

9 Q. Mr. Aly Saad Aly, you're only in Canada because you
10 were removed illegally because you were overstaying your
11 visa in the United States, correct?

12 A. No.

13 Q. All right.

14 A. That is not correct.

15 Q. Mr. Aly Saad Aly, I want to spend some time talking
16 about an Acer laptop that you used to own. You previously
17 owned an Acer laptop, correct?

18 A. I previously owned an Acer that was given to me by my
19 former advisor.

20 Q. Now, this Acer laptop, that was a computer that both
21 you and your wife, Ms. Aden, would use, correct?

22 A. For some time, yes.

23 Q. At one point in time, the power supply to this laptop
24 computer broke, correct?

25 A. Yes.

1 Q. It's your position today that your wife took this
2 computer when she left Canada for Minnesota, correct?

3 A. When she left, I couldn't find either this computer or
4 other computer as well.

5 Q. In fact, that's exactly what you represented to this
6 Court, isn't it?

7 A. Excuse me?

8 Q. You represented to this Court that your wife had taken
9 your Acer laptop computer when she left Canada, correct?

10 A. I represent that she took two computers, Toshiba
11 computer and Acer computer.

12 Q. I want you to turn to Respondent Exhibit 27, please.

13 A. Let me see. Yes.

14 Q. Let me know when you are there.

15 A. Yes. So give me a minute. 27. 27. Okay. 27.

16 Q. Do you see at the top of the page it reads United
17 States District Court, District of Minnesota?

18 A. Yes, ma'am.

19 Q. In the middle of the page, Petitioner's Response to
20 Respondent's First Set of Interrogatories, numbers 1
21 through 9, correct?

22 A. Yes, ma'am.

23 Q. All right. Now I want you to flip to page 9 of
24 Respondent's Exhibit 27.

25 A. Page 9.

1 Q. Are you there?

2 A. Yes, ma'am.

3 Q. That's your signature, correct?

4 A. Yes.

5 Q. And you signed in front of a notary public, correct?

6 A. Yes.

7 MS. YANG: Your Honor, I offer RTX 27 into
8 evidence.

9 THE COURT: Any objection?

10 MS. BERG: No.

11 THE COURT: 27 is admitted.

12 BY MS. YANG:

13 Q. Mr. Aly Saad Aly, I want you to turn to page 5 of this
14 exhibit.

15 A. Okay.

16 Q. In the middle of the page, it reads --

17 Mr. Aly Saad Aly, interrogatory number 5 reads:
18 Identify all computers and mobile computing devices, such
19 as smart phones and tablet computers including location and
20 the name, address, addresses, telephone numbers and e-mail
21 addresses of all persons who have custody or control over
22 the identified computers and mobile computing devices to
23 which you have had access from March to August 2012,
24 correct?

25 A. Okay. Yes.

1 Q. And on the next page, you will find your answer, and
2 this is RTX 27-006, and in your answer you say, I do not
3 now own or have ever owned a smart phone, tablet computer
4 or mobile computing device other than a laptop. I owned an
5 Acer laptop computer, which respondent took with her when
6 she abducted our child to the United States.

7 Those were your words, correct?

8 A. Yes, ma'am.

9 Q. But, in fact, you actually kept this laptop, didn't
10 you? That computer is currently with you in Canada, isn't
11 it?

12 A. No, ma'am. No, that's not true.

13 Q. All right. I want you to turn to RTX 75.

14 A. 75 as the number of the page or the number of the --

15 Q. It's Respondent's Exhibit 75.

16 A. Yes. Give me a second.

17 Q. Sure.

18 A. All right.

19 Q. Page one, this is the declaration of Kimberly Nunez to
20 authenticate Waterloo Police reports concerning Mohamed Aly
21 Saad Aly and Amal Aden, correct?

22 A. Yes, ma'am.

23 Q. Now, if you will turn to the next page, you will see
24 paragraph six on RTX 75-002.

25 A. The next page is the same as Aden 0074?

1 Q. This is RTX 75-002.

2 A. Okay. Because here the numbers are numbered like
3 this --

4 Q. Oh, yes. Yes.

5 A. I'm confused.

6 Q. I think you're on the right page. At the very bottom
7 of the page in the middle section it reads RTX 75-002. Do
8 you see that?

9 MS. BERG: No.

10 THE WITNESS: I don't see it, no, ma'am. I see,
11 I see, I see Aden, in addition to stamp TX number 75,
12 that's different than -- the actual page it say Aden 0073,
13 '74 and so on.

14 BY MS. YANG:

15 Q. Okay. Let's refer to the page that reads Aden 0074.
16 Do you see that?

17 A. 74. Yes. One second. Aden 00074?

18 Q. Right. Now, do you see paragraph six that reads,
19 Attached hereto and marked as Exhibit B are the records
20 consisting of three police reports involving Mohamed Aly
21 Saad Aly and Amal Aden, dated January 17th, 2011; February
22 17th, 2011; and June 5th, 2012, that were released to Brian
23 S. Carter of Robins, Kaplan, Miller & Ciresi LLP, with
24 redactions mandated by Ontario statute governing privacy
25 requests and release of information, the Municipal Freedom

1 of Information and Protection of Privacy Act.

2 Do you see that?

3 A. Yes. Yes.

4 MS. YANG: Your Honor, we would move to admit
5 Respondent's Exhibit 75 into evidence.

6 MS. BERG: Your Honor, we would interpose an
7 objection only to the extent that we had a specific
8 agreement with counsel when we executed the releases with
9 these police reports to be obtained without the Irish lace
10 on them that they would immediately copy whatever they
11 received to us.

12 You'll note this was received by them on October
13 26th, 2012. We did not secure this until the exchange of
14 exhibits, which I believe was on November 9th. It's
15 unacceptable to us, given the absolute overbearing,
16 demanding e-mails that we received regarding -- I'm
17 sorry -- it was November 7th, regarding every little thing
18 in this case that they would sit on this police report for
19 at least a week without providing it to us.

20 And so for that basis alone, we would move to
21 exclude.

22 MR. CARTER: Your Honor, if I may address --

23 THE COURT: Go ahead.

24 MR. CARTER: -- Ms. Berg's point. Ms. Berg is
25 correct. We worked together to get this, to get these

1 police reports from the Kitchener, the Waterloo Regional
2 Police. Both parties executed consent forms, and I worked
3 with the Waterloo Regional Police to secure the reports.

4 We did not receive the reports until November
5 5th, late in the day. I was actually out of the office.
6 We got them processed the following day and exchanged --
7 and submitted them to petitioner on November 7th. We
8 certainly did not have these documents in late October. We
9 received them on November 5th.

10 MS. BERG: That's fine.

11 THE COURT: Well, 75 will be admitted.

12 BY MS. YANG:

13 Q. Mr. Aly Saad Aly, I want you to turn to page 26 of
14 Respondent's Exhibit 75.

15 A. So tell me the page on the bottom, ma'am.

16 Q. This is, this is RTX 75-026, and I'll --

17 A. So what is the number on the bottom?

18 Q. That is the number at the bottom middle area of the
19 page, and alternatively if you're looking at the bottom
20 right-hand corner of the page, it's Aden 00098. Do you see
21 that?

22 A. 98 I see, yes. One second, please. One second. Yes.
23 I see 98 now.

24 Q. Mr. Aly Saad Aly, this was a report that was entered on
25 June 5th, 2012, correct?

1 A. Let me go back to the beginning of the report and see
2 what was the date. Yes. June the 5th, yes.

3 Q. And this was after an interview that you had with the
4 police at your home, correct?

5 A. They came at my home, and they conduct the interview
6 with me, yes.

7 Q. During this interview with the police at your home, you
8 specifically discussed the Acer laptop with the police,
9 didn't you?

10 A. Actually, he asked me what kind of laptop she was
11 using, and I explained to him we have two laptops, that her
12 laptop, which was broken, and the other Acer, which was
13 power supply was not working and laid in the closet for six
14 weeks, six months.

15 Q. Mr. Aly, I want to direct your attention to towards the
16 bottom of the page. Do you see the line beginning, At
17 12:02 the interview ended?

18 A. I do.

19 Q. And immediately under that, the officer noted, I noted
20 that the complainant Mohamed was using an Acer laptop
21 computer.

22 A. True.

23 Q. I also observed on the main screen of that laptop a
24 folder entitled Amal and underneath that the caption for
25 messages. That's what the police report says, correct?

1 A. Yes.

2 Q. Now earlier it was just your testimony a few minutes
3 ago that your wife had taken this Acer laptop when she left
4 Canada, correct?

5 A. Yeah, but those are two different Acer laptops, ma'am.

6 Q. So it's your testimony today that there were two
7 different Acer laptops, correct?

8 A. Yes, because the Acer laptop I was referring to in my
9 answer in the beginning of my, of my police report was the
10 Acer laptop that was broke and the power supply was not
11 working.

12 Q. All right. Thank you. Thank you, Mr. Aly Saad Aly.

13 Now, earlier in your testimony with your attorney you said
14 that at least initially you were okay with the baby being
15 born in Minnesota, correct?

16 A. I was not okay. I didn't want it, but in order to make
17 her happy, I did.

18 Q. In order to make her happy --

19 A. To be a supportive husband.

20 Q. That's right. To be supportive of your wife?

21 A. Yes.

22 Q. And in fact, that's what you told the Canadian court
23 when you filled out an affidavit, isn't it?

24 A. Say again, ma'am?

25 Q. I want you to turn to Respondent's Exhibit 33.

1 A. Okay. Okay.

2 Q. Are you there?

3 A. Give me a second, please. Okay.

4 Q. Now, page one, this is an affidavit that you filled out
5 for the Superior Court of Justice in Kitchener, Ontario,
6 correct?

7 A. Yes, ma'am.

8 Q. And the document is dated June 13th, 2012, correct?

9 A. Yes, ma'am.

10 Q. Now, if you look down into the middle of the page, you
11 swore and you affirmed that the following statements
12 contained in this document would be true, correct?

13 A. Yes.

14 Q. Now, I want you to turn to page 5 of this exhibit.

15 A. Mm-hmm (Yes).

16 Q. Are you there?

17 A. Yes, ma'am.

18 Q. That's your signature, correct?

19 A. Yes, ma'am.

20 Q. And you signed this document in front of a commissioner
21 for taking affidavits, correct?

22 A. Yes.

23 Q. Now, I want you to turn to page three of Respondent's
24 Exhibit 33.

25 A. Mm-hmm (Yes).

1 Q. Paragraph 13 in the middle of the page, it reads, We
2 had an initial plan for her to deliver the baby in U. S.
3 where she has some relatives that can be of a help for her
4 during her delivery and after.

5 That's what you wrote, correct?

6 A. Yes, that we had a plan she wanted and I agree with
7 her.

8 Q. And the relatives, the relatives that you refer to
9 here, those were relatives in Minnesota, correct?

10 A. Yes.

11 Q. All right. Now I want to turn your attention to
12 Respondent's Exhibit 26.

13 A. Mm-hmm. 26. Okay.

14 Q. This is Petitioner's Response to Respondent's First Set
15 of Requests for Admissions to Petitioner, correct?

16 A. Mm-hmm (Yes).

17 Q. Now, I want you to turn to page two.

18 A. Okay.

19 Q. And do you see request for admission number 5?

20 A. Yes.

21 Q. And that reads, You intended to have P-h-a-s-a's
22 delivery occur in Minnesota, correct?

23 A. Mm-hmm (Yes).

24 Q. And in your response, your response number 5 reads, I
25 deny that it was ever my intention or desire to have our

1 daughter's delivery occur in Minnesota. That's what you
2 wrote, correct?

3 A. True. True. True.

4 Q. All right. Mr. Aly Saad Aly, I want to discuss very
5 briefly your previous marriages.

6 A. Okay.

7 Q. With your marriages to Ms. Gazizova and Ms. Aljaish, at
8 some period in time you were married to both of them at the
9 same time, correct?

10 A. Legally, yes. True.

11 Q. All right. And I want to spend some time talking about
12 your former wife Ms. Roundtree.

13 A. Okay.

14 Q. You previously abused Ms. Roundtree, didn't you?

15 A. No, ma'am, I did not.

16 Q. You squeezed her jaw tightly in front of her mother,
17 correct?

18 A. I did not, ma'am. I did not.

19 Q. You hurt her in the morning because she wouldn't sleep
20 with you, correct?

21 A. That's not -- that's incorrect.

22 Q. I want to turn your attention to Respondent's
23 Exhibit 38.

24 A. Mm-hmm (Yes).

25 Q. Are you there?

1 A. One second, please. Yes, ma'am.

2 Q. This is page two.

3 A. Mm-hmm (Yes).

4 Q. This is a temporary restraining order, correct?

5 MS. BERG: Your Honor, this is where we begin to
6 object on the relevancy and the character evidence.

7 MS. YANG: Your Honor, we would submit that it's
8 absolutely relevant given the pattern of abuse that
9 petitioner has showed against his previous spouses, which
10 goes directly to our grave risk defense.

11 THE COURT: Well, let's go through the document.

12 BY MS. YANG:

13 Q. Mr. Aly Saad Aly, this is a temporary restraining order
14 that Ms. Roundtree obtained against you, correct?

15 A. Yes.

16 Q. Now I want to turn your attention to Respondent's
17 Exhibit 39. You have a child with Ms. Roundtree, correct?

18 A. No, ma'am. As far as my knowledge, I don't know
19 anything about a child with her.

20 Q. So it's your testimony today that you do not have a
21 child with Ms. Roundtree, correct?

22 A. I was never told.

23 Q. Now Respondent's Exhibit 39, this is a child support
24 order that Ms. Roundtree obtained against you, correct?

25 MS. BERG: Your Honor, again I object as to

1 relevance and character. Further, unless she can prove
2 that this was served on him, she cannot cross-examine him
3 on it.

4 THE COURT: Well, overruled for now. Go ahead.

5 BY MS. YANG:

6 Q. Mr. Aly Saad Aly, in this order, you were found to be
7 under a legal obligation to support Alayna Roundtree born
8 April 19th, 2002, correct?

9 A. From what I read, yes, ma'am.

10 Q. You were married to Ms. Roundtree on April 19th, 2002,
11 correct?

12 A. April 19th? No. That's not true.

13 MR. SAAD ALY SAAD ALY: Hello? Hello?

14 THE WITNESS: That's my brother.

15 MR. SAAD ALY SAAD ALY: My mom is with me now.
16 If you want to talk with her now, she is ready now.

17 THE COURT: We're not quite ready, so just wait.

18 Okay?

19 MR. SAAD ALY SAAD ALY: Okay. I will wait.

20 THE COURT: Okay. If you could, if there is a
21 way to put the phone on mute, that would be helpful. Go
22 ahead.

23 BY MS. YANG:

24 Q. Mr. Aly Saad Aly -- I'm sorry.

25 Your Honor, I don't know if I have moved any of

1 these exhibits into evidence, but if I haven't, I would
2 like to offer 27, 75, 26, 33?

3 MS. BERG: Should we tell them to call back?

4 THE COURT: I think that's probably a good idea.

5 **(Foreign language spoken.)**

6 MR. SAAD ALY SAAD ALY: Okay. Bye bye.

7 THE WITNESS: Bye.

8 THE COURT: 75 and 27 were already admitted, so
9 you're moving 26, 33, 38 and 39, did you say?

10 MS. YANG: That's correct, Your Honor.

11 MS. BERG: Your Honor, our objections continue.

12 THE COURT: I will admit the exhibits and
13 overrule the objections. So 26, 33, 38 and 39 are
14 admitted.

15 MS. YANG: Thank you.

16 BY MS. YANG:

17 Q. Mr. Aly, I want to talk briefly about some of your
18 beliefs. It's important to you that Muslim women are
19 chaste until marriage, correct?

20 A. Excuse me? I don't understand what you mean.

21 Q. It's important to you that Muslim women do not have sex
22 before marriage, correct?

23 A. That's not to me. Islam said women is not supposed to
24 have sex before marriage.

25 Q. And you hold your Islamic beliefs, correct?

1 A. I mean, I believe women don't have sex outside of
2 marry, outside, outside marriage. That's how Islam
3 believe. We don't believe fornication nor--

4 MS. BERG: I'm not understanding him.

5 BY MS. YANG:

6 Q. So it's important to you that Muslim women do not have
7 sex before marriage, correct?

8 A. The question kind of vague. If you meant she was night
9 before, yes, but not -- she was having sex, fornication,
10 adultery, that's what you meant?

11 Q. My question was simply, it's important to you that
12 Muslim women do not have premarital sex, correct?

13 A. I heard in the past that woman have sex in the past and
14 was married altogether.

15 Q. That's fine. It's important for your daughter not to
16 have premarital sex, correct?

17 A. Well, you raise her Muslim. She is not supposed to
18 have sex without marriage.

19 Q. Mr. Aly Saad Aly, you're the type of husband who gets
20 angry if your wife doesn't fix your food, correct?

21 A. No. That's not correct.

22 Q. In fact, you have previously gotten into fights with
23 your wife because she wouldn't fix your lunch, correct?

24 A. No. That's not true.

25 Q. And I want you to turn your attention to Respondent's

1 Exhibit 75.

2 A. 75. Okay. Yes, ma'am.

3 Q. Now, if you will turn to page 36 of this report.

4 A. Can you give me the number like Aden 00 number?

5 Q. Sure. Aden 00108.

6 A. 108.

7 Q. Let me know when you're ready.

8 A. Please. Thanks.

9 Q. This is a report that was entered on February 27th,
10 2011, correct?

11 A. One second, ma'am. '08, yes. Was done in February
12 27th, yes.

13 Q. All right. I want you to go one, two, three paragraphs
14 up from the bottom where it starts, Both Mohamed and Amal's
15 stories. Do you see that paragraph?

16 A. Yes, ma'am.

17 Q. That paragraph reads, Both Mohamed's and Amal's stories
18 was consistent in indicating that the fight today started
19 over Mohamed being upset that he had to make his own lunch.
20 This began a verbal argument, as Amal felt Mohamed could
21 make his own lunch. The argument escalated.

22 That's what the police report said, correct?

23 A. Yeah. The police report said this, we verbally argue,
24 but I never fight.

25 Q. In fact, you told the police that day that your wife,

1 your fiancee at the time, was threatening to kill you,
2 isn't that correct?

3 A. I said she, she, she hold a knife and try to kill me
4 and kill herself and kill the baby inside her womb.

5 Q. And you told the dispatcher that you were actually in
6 the bathroom for your own safety, correct?

7 A. At the moment when I called him, I was in the bathroom,
8 true.

9 Q. Mr. Aly Saad Aly, you're over six feet tall?

10 A. Correct. I'm six one.

11 Q. You're over 180 pounds, correct?

12 A. Yes. 190.

13 Q. Mr. Aly Saad Aly, the police didn't believe your story
14 that day, did they?

15 A. Well, from what I read, they didn't believe because
16 they say that I stumbled over describing the knife and
17 where the knife was, but that's not the case.

18 Q. That's correct. The paragraph that you're referring
19 to, in fact, is the paragraph starting, Police arrived at
20 the apartment. Do you see that?

21 A. Yes.

22 Q. And that paragraph reads, Police arrived at the
23 apartment and found Mohamed in the kitchen. Neither
24 Mohamed nor Amal had any injuries. Mohamed was asked where
25 the knife was, and he stumbled upon questioning and stated

1 I think it's in the kitchen and began opening drawers,
2 pretending to look for it. Mohamed could not describe the
3 knife that he reported Amal had.

4 That's what the report says, correct?

5 A. That's what the report said, yes.

6 Q. Mr. Aly Saad Aly, I want to spend some time talking
7 about some discussions that you had with the police on June
8 5th, 2012.

9 A. Mm-hmm (Yes).

10 Q. You love your wife, isn't that correct?

11 A. Could you repeat that, please?

12 Q. You love your wife?

13 A. Of course I do.

14 Q. And you love your daughter?

15 A. I'm crazy about her.

16 Q. You're concerned about your wife and your daughter's
17 safety, correct?

18 A. Of course.

19 Q. But it took you more than one month, more than one
20 month after your daughter and your wife had left Canada
21 before you reported them missing, isn't that correct?

22 A. True.

23 Q. All right. So on June 5th, you called the police
24 several times, and I want to start with your morning call.
25 You made a morning call to the police, correct?

1 A. Yes.

2 Q. And after you called them, they interviewed you at your
3 home, isn't that correct?

4 A. Yes.

5 Q. When they interviewed you at your home, you made up a
6 story for the police, didn't you?

7 A. Yes, ma'am.

8 Q. You told the police that the kid, the daughter, had
9 been left behind in Canada, correct?

10 A. Yes.

11 Q. I want to turn your attention to RTX 75, same exhibit,
12 but if you will flip to page four, and I will --

13 A. So Aden 001 what?

14 Q. Aden 00076?

15 A. Yes.

16 Q. Are you there?

17 A. Yes. Yes, ma'am.

18 Q. This is the report that was filed on June 5th, 2012,
19 and it was at your residence. The location is your
20 residence, correct?

21 A. Yes.

22 Q. And the interviewers included Detective Sergeant Dermo
23 and Detective Schaus, as well as an Officer Murphy,
24 correct?

25 A. That's what is written there, yes.

1 Q. And the start time was 11:07 hours, and it ended at
2 12:02, correct?

3 A. Yes.

4 Q. Now I want you to turn the page to page six. This is
5 Aden 00078.

6 A. Mm-hmm (Yes).

7 Q. And during your conversation with the police at your
8 home, the police asked you why Ms. Aden wouldn't have taken
9 your daughter with her, correct?

10 A. Yes.

11 Q. And in your response, and you'll see this in the first
12 full paragraph at the top of the page, Officer BD asked:
13 Why would she not take the child with her?

14 Aly Saad Aly, you said: That was the plan. Then
15 she said she wanted to leave child here.

16 You knew that when you made this statement to the
17 police the baby in fact was in Minnesota, didn't you?

18 A. In Minnesota? No. I know she is somewhere in U. S.

19 Q. But you knew that she was not in Canada, correct?

20 A. Yes, due to logic that she have to work and sustain her
21 life.

22 Q. And then you continued your lie to the police. You
23 told them that you visited the baby who you had sent to
24 your cousin in Toronto, correct?

25 A. That's true, ma'am.

1 Q. I'll direct your attention a couple more paragraphs
2 down, about halfway where Officer BD says yes. Do you see
3 that paragraph?

4 A. Yes.

5 Q. Aly Saad Aly, you replied: I went to visit weekly
6 after I finished school. So I sent her in May to my
7 cousin's. Then every week I visit in Toronto.

8 None of that was true, was it?

9 A. Yes.

10 Q. And then you further stated: I called my cousin every
11 day to make sure the child was fine. I thought that was
12 better than putting her in child care.

13 Mr. Aly Saad Aly, you didn't actually call your
14 cousin every day to check on the child, did you?

15 A. No, I did not.

16 Q. Mr. Aly Saad Aly, you provided incredible detail to
17 your elaborate story to the police, didn't you? In fact --

18 A. Well --

19 Q. Actually, I'll just turn your attention to Respondent
20 Exhibit 75, page nine, and this is Aden 00081. Let me know
21 when you're there.

22 A. Yes.

23 Q. Two paragraphs up from the bottom of the page, the
24 officer asked: You said you went to Toronto to visit your
25 child. How did you get there?

1 You responded, Aly Saad Aly: Bus. Canada Go.
2 Greyhound.

3 Those were your statements, correct?

4 A. Yes.

5 MS. BERG: Your Honor, I'm going to interpose an
6 objection in the interests of time. My client has already
7 testified on direct that he lied. I don't know that we
8 need to go through each and every possible statement during
9 this police investigation.

10 THE COURT: Well --

11 MS. YANG: Your Honor, the lies continued
12 throughout the day over the course of several phone calls,
13 several conversations with the police, interviews at the
14 home, interviews at the station.

15 THE COURT: Let's go ahead.

16 MS. YANG: Thank you.

17 BY MS. YANG:

18 Q. Mr. Aly Saad Aly, later that afternoon you called the
19 police, didn't you?

20 A. Yes.

21 Q. And when you called them in the afternoon, you made up
22 another lie. You told them that your wife had called you
23 that afternoon, didn't you?

24 A. No, I did not lie. There I did not lie. She really
25 called me.

1 Q. Let's turn your attention to page 32 of this
2 Exhibit 75.

3 A. Okay.

4 Q. This is Aden 00104.

5 A. Aden 00014?

6 Q. 00104.

7 A. One second, please. Okay.

8 Q. Do you see a list of bullets --

9 A. Yes.

10 Q. -- at the top of the page?

11 A. Yes.

12 Q. Now there is a paragraph that immediately follows the
13 bullets, and it starts out, Approximately 1:50 p.m. Do you
14 see that?

15 A. Mm-hmm (Yes).

16 Q. The report says, At approximately 1:50 p.m., Aly Saad
17 Aly contacted Sergeant Dermo and stated that his wife
18 called him at the University and stated to stop looking for
19 her and swore at him. Aly Saad Aly advised that he
20 believed that she called him because Aden had found out
21 that police had been contacted. However, no family had
22 been spoken with to that point.

23 That's what the police report said, correct?

24 A. Yes.

25 Q. Now, later on that night you were brought into the

1 station for another interview with the police, correct?

2 A. Yes.

3 Q. And that occurred probably around 6:51 p.m., correct?

4 A. I'm not sure about the time, but it was after 3:00 or
5 after 4:00.

6 Q. Let's go down further on this page. There is a big
7 block that has been redacted. I want to look at the
8 sentence that follows that first redaction or the first
9 paragraph that's been redacted.

10 Do you see the sentence starting with, Aly Saad
11 Aly was brought into Central Division. Do you see that?

12 A. Mm-hmm, mm-hmm.

13 Q. And that sentence reads, Aly Saad Aly was brought into
14 Central Division at 6:51 p.m. and provided another
15 statement to police where he stated he had previously
16 deceived police with information regarding his child. The
17 address he provided was fabricated, as was the report that
18 his child was left behind.

19 That's what the report says, correct?

20 A. That's what the report said, yes.

21 Q. Now I want to take a look at some of your own words
22 when you interviewed with the police for the second time.
23 Let's turn to page 14 of Respondent's Exhibit 75. This is
24 Aden 00086.

25 A. 00086. Mm-hmm (Yes).

1 Q. If you go down --

2 A. Yes, ma'am.

3 Q. In the middle of the page, there is a sentence that
4 starts, MA: I told you she didn't take the kid.

5 Do you see that paragraph?

6 A. Yes.

7 Q. And so in your conversation with the police when they
8 interviewed you for the second time on June 5th, 2012, you
9 stated: I told you she didn't take the kid. She woke up
10 in the morning, said she was going to the doctor. She took
11 the kid and left. I shouldn't have hidden that she took
12 the kid. I should have told you that. I just didn't want
13 to harm her.

14 Those were your words, correct?

15 A. That's what is written here, yes.

16 Q. And then after that the officer said that it was really
17 important for you to be honest, and in his statements
18 Officer BD followed up with: It's important that you're
19 completely honest. That's concerning to me.

20 That's what the officer said to you, correct?

21 A. That's what is written here, yes.

22 Q. Now I want you to turn to the next page, Aden 0007.
23 This is RTX 75-015. At this point of the interview, the
24 police directly called you out on your lie.

25 At the top of the page, Officer BD said to you:

1 You made up a story about a cousin in Toronto.

2 A. Where exactly is that, ma'am? I don't see it.

3 Q. That's at the very top of page Aden 00087.

4 A. Because she has my car and the kid?

5 Q. Yeah. It's the chunk that follows after that sentence.

6 A. Okay.

7 Q. It begins with BD.

8 A. Okay.

9 Q. So Officer BD said: You made up a story about a cousin
10 in Toronto.

11 You responded: I did that. It was a mistake.

12 That's what you said to the police, correct?

13 A. That's what is written here, yes.

14 Q. And so by this point, the police had reminded you of
15 the importance of telling the truth to them, correct?

16 A. Yes.

17 Q. But despite that, you continued to lie, isn't that
18 correct?

19 A. I did not continue to lie. What did I lie after that?
20 The only lie is she did not take my child and my child is
21 with my cousin.

22 Q. Let's go to the same page, Respondent's Exhibit 75-015.
23 This is Aden 00087. The officer specifically asked you
24 again about your conversation with Ms. Aden that afternoon,
25 correct?

1 A. What's the statement start with?

2 Q. It starts with BD: What was the conversation with her?

3 Do you see that?

4 A. One second. What was the conversation, yes.

5 Q. And you responded: She was cursing and screaming. She
6 said don't search for me. Leave me alone. I got freaked
7 out. I wondered how would she know. The only reason I
8 called this morning is I don't want to be responsible for
9 the car she has.

10 Officer BD stated: I have a hard time believing
11 you called about your missing car and not your daughter.

12 That's what this report says, correct?

13 A. That's what the report said, yes.

14 Q. Now earlier in your direct exam and testimony, you
15 testified you never lied to the Canadian court, correct?

16 A. Yes.

17 Q. Let's turn back to Respondent's Exhibit 33.

18 A. One second, please.

19 Yes, ma'am.

20 Q. Are you there?

21 A. Yes, ma'am.

22 Q. This is the affidavit you filed with the Canadian court
23 in Kitchener, correct?

24 A. Yes, ma'am.

25 Q. Now, if you will turn to page 4 of that report,

1 paragraph 17.

2 A. Okay.

3 Q. In the middle of paragraph 17, there is a sentence that
4 reads: On June 5th, 2012, I called 911 to report a missing
5 wife, child and a car.

6 That's what you wrote to the Court, correct?

7 A. Well, that's what, after me and the -- after I come and
8 the same day I told the officer the truth, that's what the
9 report was about, missing child and car and wife.

10 Q. But when you first called the police on June 5th, 2012,
11 you didn't actually report a missing child, did you?

12 A. True, but what I made in the statement is just what I
13 told you. The end up result is end up was calling was
14 missing child and car and wife.

15 Q. Mr. Aly Saad Aly, do you receive Canadian child
16 benefits for Princess?

17 A. Yes.

18 Q. And in fact, the reason why you didn't report your
19 daughter initially missing was because you wanted to
20 continue receiving these benefits, correct?

21 A. No, ma'am. That is not anymore.

22 Q. Mr. Aly Saad Aly, in this particular case, you have
23 requested your attorneys to move for Skype access to your
24 daughter, correct?

25 A. Say again, ma'am?

1 Q. You have previously asked this particular Court to
2 grant you Skype access to your daughter, correct?

3 A. I did -- I don't remember requesting Skype access to my
4 daughter.

5 Q. I didn't fully understand your answer.

6 A. You're asking me if I asked the Court for a Skype
7 access to my daughter?

8 Q. That's correct?

9 A. I do not remember such a thing.

10 Q. Are you aware if your attorneys have asked this Court
11 for you to have Skype access to your daughter?

12 A. I do not remember.

13 MS. BERG: To have what?

14 BY MS. YANG:

15 Q. To have communication with your daughter via Skype?

16 A. I do not remember this.

17 MS. BERG: No. That is a different case.

18 BY MS. YANG:

19 Q. In the last couple of months, have you had any
20 communication with your daughter?

21 A. Couple of month? No. I have not with my daughter
22 since she left.

23 MS. YANG: Can we have a few minutes, please?

24 THE COURT: Go ahead.

25 MS. YANG: Thank you.

1 MS. BERG: Your Honor, we're going to lose the
2 translator.

3 After 1:30 we have to pay for you, right?

4 THE INTERPRETER: I don't know.

5 MS. BERG: Oh, we're paying for him right now.

6 Gees. We've got the affidavit in already of the mother, so
7 it's really their right to cross-examine her.

8 THE COURT: Well, let's see how much longer we
9 have here.

10 BY MS. YANG:

11 Q. Mr. Aly Saad Aly, just very, very quickly. I just want
12 to make sure I understood you correctly. Earlier you said
13 that actually there were two Acer laptops that you owned,
14 correct?

15 A. What I said is, the Acer laptop that is mentioned, the
16 police officer that he say I was using, that's not the same
17 Acer that you guys asked me and I said I don't have in
18 possession anymore.

19 Q. That's right. So earlier you testified that there were
20 actually two Acer laptops, correct, one with a broken power
21 supply?

22 A. The story include two Acers. One Acer my wife took
23 with her and one Acer I purchased for a couple of weeks to
24 have my proposal, and I returned it back.

25 Q. All right. So let's look back briefly at Respondent's

1 Exhibit 27.

2 A. Okay.

3 Q. Page six.

4 A. Yes, ma'am.

5 Q. Your answer in this paragraph, you wrote: I owned an
6 Acer laptop computer which respondent took with her when
7 she abducted our child to the United States.

8 That's what you wrote, correct?

9 A. One second, please. In 006?

10 Q. 006, yes.

11 A. I do not, I do not, I do not now own, is that what
12 you're referring to?

13 Q. Yep. I'm referring to, yep, the second sentence: I
14 owned an Acer laptop which respondent took with her when
15 she abducted our child to the United States.

16 A. Yes.

17 Q. That's what you wrote, correct?

18 A. Yes.

19 MS. YANG: Thank you for answering my questions,
20 Mr. Aly Saad Aly.

21 THE WITNESS: Thanks, ma'am.

22 THE COURT: Do you want to do redirect right now,
23 or would you like to move on to the next witness?

24 MS. BERG: Can I reserve my redirect and move on
25 to the next witness?

THE COURT: You may.

2 MS. BERG: Mohamed, can you get your mom on the
3 phone?

4 THE WITNESS: Yes, give me a second. I will put
5 it on mute and will quick call her.

THE COURT: Do you want to swear the interpreter?

7 MS. BERG: He needs to be sworn in.

THE COURT: That's what we're doing right now.

(Interpreter sworn.)

10 THE INTERPRETER: Okay.

11 MR. ALY SAAD ALY: They will call in a minute.

12 MS. BERG: All right. Thank you, Mohamed.

13 MR. ALY SAAD ALY: No problem.

14 MS. BERG: Mohamed, how should we address your
15 mother?

16 MR. ALY SAAD ALY: I think that the interpreter
17 should start. Try to speak with her in Egyptian and slow
18 with the words. She is an illiterate woman.

(Pause.)

20 MR. SAAD ALY SAAD ALY: Hello?

21 MS. BERG: Hello.

22 MR. SAAD ALY SAAD ALY: Yes, I am with you.

23 MS. BERG: We are ready to proceed. We have a
24 translator on here. Please put your mother on the phone.

25 MR. SAAD ALY SAAD ALY: My mom is here and with

1 you.

2 THE COURT: She needs to be sworn as a witness,
3 so we will do that.

4 THE INTERPRETER: Okay. I will do that but one
5 by one.

6 (Witness sworn.)

7 MS. BERG: Does she swear to tell the truth?

8 THE WITNESS: Yeah.

9 MS. BERG: Is that yes? Is she hearing us?

10 THE WITNESS: Yes.

11 MS. BERG: All right.

12

13 SAADIA MOHAMED ATTIA FARAG (VIA TELEPHONE),

14 after having been first duly sworn, was examined and

15 testified as follows:

DIRECT EXAMINATION

17 BY MS. BERG:

18 Q. You have been asked to swear the truth. Do you swear
19 the truth?

20 A. Yes. I will say upon to God what she told me.

21 Q. All right. Are you Mohamed Aly Saad Aly's mother?

22 A. Yes, I am his mother.

23 Q. And did you have a telephone conversation with his
24 wife?

25 A. Yes.

1 Q. His wife's name is Amal Aden?

2 A. Aden.

3 Q. And is she the mother of your granddaughter Princess?

4 A. Yes.

5 Q. What did she tell you when she made the phone call to
6 you?

7 A. She talked to me, and she was saying that, that she is
8 getting irritated and occasionally she gets, she gets
9 irritated and she gets some nerve breaking.

10 Q. And she gets what?

11 THE INTERPRETER: Nerve breaking.

12 MS. BERG: Okay.

13 BY MS. BERG:

14 Q. And did you complete a declaration of your testimony
15 today?

16 A. Say that one by one.

17 Q. Yeah. It was too big.

18 Did you complete -- did your son help you write a
19 statement to the Court?

20 A. Yes, because I don't read or write. My son was with
21 me.

22 Q. And that statement was dated October 29th, 2012?

23 A. What?

24 Q. Did you sign the statement on October 29th, 2012?

25 A. Yes.

1 Q. Okay.

2 A. Sign what again?

3 Q. Say that again?

4 A. I'm sorry. What did I sign again, if you don't mind?

5 Q. Okay. You signed a statement written with the
6 assistance of your son on October 29th, 2012, is that
7 correct?

8 A. In October? Yes. In the last month, October, yes.

9 Q. Was your -- was Mohamed's wife angry, believing he was
10 married to an Egyptian woman?

11 A. Yes, of course.

12 Q. Okay. All right.

13 I have nothing further. Don't let her go,
14 though.

15 THE COURT: Before she goes, can we have her name
16 and spelled?

17 THE INTERPRETER:

18 MS. BERG: S-a-a-d-i-a, Mohamed, M-o-h-a-m-e-d,
19 Attia, A-t-t-i-a, Farag, F-a-r-a-g.

20 So now you have to be, the other side gets to ask
21 you questions.

22 THE WITNESS: Yeah. You can tell me questions
23 and whatever I know, I will respond.

24 THE COURT: Cross-examination?

25

1

CROSS-EXAMINATION

2 BY MR. CARTER:

3 Q. Good afternoon, Ms. Attia. Ms. Aden only called you,
4 the first time she called you was in early June, isn't that
5 correct?

6 A. She contacted me before June.

7 Q. And the only other time she contacted you was about two
8 months later?

9 A. Yes.

10 Q. So Ms. Aden only contacted you two times, isn't that
11 correct?

12 A. She also contacted me to say happy holiday, happy
13 holiday on November.

14 Q. So she contacted you once in November saying happy
15 holidays?

16 A. Yes, and I had asked her how is the daughter doing.

17 Q. And so that means your testimony today is that she
18 contacted you three times, that's correct?

19 A. Yes, honest to God, she had contacted me.

20 Q. Mr. Aly Saad Aly is your son, isn't he?

21 A. Yes, my son.

22 Q. In fact, he is your oldest son, isn't that correct?

23 A. Mohamed Aly Saad is my oldest and Saad Aly Saad is one,
24 the one who is helping me now.

25 Q. And of course you love Mr. Aly Saad Aly very much?

1 MR. SAAD ALY SAAD ALY: May I interrupt? May I
2 interrupt? May I interrupt, please?

3 THE COURT: No. Let's continue with the
4 questioning here. Okay?

5 MR. SAAD ALY SAAD ALY: She, she, the way you
6 said the names is different than Egyptian say it, so that's
7 why.

8 THE COURT: Let's go ahead with the next
9 question.

10 BY MR. CARTER:

11 Q. All right. I'll move on. You have two other children,
12 isn't that correct?

13 A. Yes, we have two.

14 Q. You have one daughter?

15 A. Yes, I have a daughter.

16 Q. And you have one son who is the youngest, isn't that
17 correct?

18 A. Yes.

19 Q. And aside from Mohamed Aly Saad Aly's children, the
20 only grandchildren you have are from your daughter, that's
21 correct, isn't it?

22 A. From my daughter?

23 Q. Your daughter has children, isn't that correct?

24 A. She has four.

25 Q. But your youngest son doesn't have any children, isn't

1 that correct?

2 A. Not married yet.

3 Q. And you must love all of your grandchildren very much?

4 A. Of course.

5 Q. But the children of your son are particularly

6 important, isn't that correct?

7 A. Of course.

8 Q. And that's because the children of a son are the

9 extension of the family?

10 A. Yeah, they are the ones that actually extend the
11 family.

12 Q. But the children of a daughter are the extension of her
13 husband's family, isn't that correct?

14 A. Yes, of course.

15 Q. Your son Mohamed Aly Saad Aly has been married before
16 he married Amal Aden, isn't that correct?

17 A. Yes, he was.

18 Q. In fact, he was married to Nora Roundtree, isn't that
19 correct?

20 THE INTERPRETER: The interpreter would like the
21 name of --

22 BY MR. CARTER:

23 Q. In fact, he was married to Nora, N-o-r-a, Roundtree,
24 R-o-u-n-d-t-r-e-e?

25 A. Yes, for two months, and there was no result.

1 Q. He has a child with Ms. Roundtree, doesn't he?

2 A. I didn't hear the question.

3 Q. Your son Mohamed Aly Saad Aly has a daughter with Nora
4 Roundtree, isn't that correct?

5 A. No.

6 Q. Your son, you testified today that your son helped you
7 write this declaration, isn't that correct?

8 A. Because I don't write or read, I tell him the
9 statement, and he write it because I can't read or write.

10 Q. And so you've discussed this case with him, haven't
11 you?

12 A. Talk to who?

13 Q. Your son, Mohamed Aly Saad Aly?

14 A. Talk to him about what?

15 Q. About this case.

16 A. I was, I was, I was, I was, I was telling, I was
17 talking to him and telling him what she had told me. She
18 had said this and this and that.

19 MR. CARTER: No further questions.

20 THE COURT: Go ahead, Ms. Berg.

21

22 **REDIRECT EXAMINATION**

23 BY MS. BERG:

24 Q. What was the name of the son who helped you write this
25 statement?

1 A. My son Saad Aly.

2 Q. Not Mohamed Aly Saad?

3 A. (No response)

4 Q. So the name of the son that wrote the affidavit is
5 different than the son who is testifying in this trial, is
6 that correct?

7 A. My son. My son who is with me because I don't know how
8 to read or write.

9 Q. Not Mohamed, the son that is with her, not Mohamed?

10 A. (No response)

11 MS. BERG: I have nothing further.

12 THE COURT: Anything further from the petitioner?

13 Anything further from the respondent?

14 MR. CARTER: No. I think that will do it. Thank
15 you.

16 THE COURT: Thank you. We're done with you as a
17 witness.

18 THE WITNESS: Is there something else?

19 THE COURT: No.

20 THE WITNESS: Is this done or should I call
21 central again?

22 MS. BERG: No.

23 THE WITNESS: So that's it? No one is going to
24 contact me again or ask me?

25 THE COURT: Yes. That's it.

1 MS. BERG: Say good-bye. Tell her to hang up.

2 THE WITNESS: Okay. Peace be with you.

3 **(Witness excused.)**

4 MR. ALY SAAD ALY: Hello?

5 THE COURT: All right. We have about ten or
6 eleven minutes left. What would you like to do, Ms. Berg?

7 MS. BERG: I have a brief redirect of Mohamed.

8 Mohamed, are you there?

9 MR. ALY SAAD ALY: Yes, ma'am.

10 THE COURT: Ms. Bruce?

11 MS. BRUCE: Your Honor? Your Honor, our expert
12 Ms. Boyle is only available until 2:10 today. She is
13 booked all day tomorrow. She could reserve her redirect.
14 We will try and squeeze in a 20-minute direct in six
15 minutes.

16 MS. BERG: That's fine.

17 THE COURT: Well, go ahead. I've got to quit at
18 ten after.

19 MS. BRUCE: Yeah.

20 THE COURT: Just have to take her by phone or
21 something if we can't finish. Okay?

22 Go ahead.

23 MS. BRUCE: All right. Thank you.

24 MS. BERG: Mohamed, are you still there?

25 MR. ALY SAAD ALY: Yes, ma'am, I'm here.

1 MS. BERG: I think they are going to have their
2 witness, their expert come in now.

3 MR. ALY SAAD ALY: Okay.

4 MS. BERG: Your Honor, would you excuse the
5 interpreter?

6 THE COURT: Yes.

7 (Witness sworn.)

8 THE COURT: Go ahead.

10 Your Honor, I would offer the CV and attachment
11 Exhibit 2 into evidence covering her publications, books
12 and qualifications since we are pretty quick on time.

13 THE COURT: Is that Exhibit 68?

14 MS. BRUCE: Yep. 68 and 69, Your Honor.

15 THE COURT: Very well. Any objection?

16 MS. BERG: Your Honor, just to renew the
17 objection as to relevance, and this is based on facts like
18 that Ms. Aden reported they met at a wedding. This is only
19 information from Ms. Aden.

THE COURT: I understand your argument.

21 Overruled, and the exhibits will be admitted.

22 Go ahead.

23

24

25

1

ELIZABETH BOYLE,

2 after having been first duly sworn, was examined and
3 testified as follows:

4

DIRECT EXAMINATION

5 BY MS. BRUCE:

6 Q. Hi, Ms. Boyle. I'm just going to skip right ahead.
7 What's your role in this case?

8 A. I am an expert witness for Amed Aly -- I'm sorry -- for
9 Amal Aden.

10 Q. And have you arrived at an opinion in this matter?

11 A. Yes, I have. I think that if the child Princess is
12 returned to her father in Canada that she is at grave risk
13 of experiencing female genital cutting, which is associated
14 with physical and psychological harm.

15 Q. Just very briefly, if you could tell the Court what you
16 did to arrive at this opinion?

17 A. Well, this is based on my 16 years of research in areas
18 related to this issue, a review of recent trends concerning
19 female genital cutting in Egypt, review of the record,
20 including the petition, the answer and the expert report
21 from Mr. Awad and speaking to Ms. Aden.

22 Q. You've just stated that it's your opinion that the
23 child will be exposed to grave risk of harm if returned and
24 subjected to female genital cutting. Why is it a problem
25 if the child is subjected to female genital cutting?

1 MS. BERG: Actually, Your Honor, we'll stipulate
2 that that's not an attractive practice.

3 THE COURT: Let's have her testimony.

4 Go ahead.

5 THE WITNESS: Yes. There are physical and
6 psychological harms associated with female genital cutting.
7 Of course, the most prominent one is the purpose of the
8 practice, which is to prevent the woman from ever having an
9 orgasm, but there are also other kinds of side effects from
10 the practice just because it's a surgical procedure.

11 So hemorrhaging is a problem, post traumatic
12 stress disorder, infection, and then a recent study with
13 the World Health Organization has shown that increases the
14 risk of a woman giving still birth when she is having
15 children. It increases the risk of excessive bleeding and
16 has other complications associated with childbirth.

17 BY MS. BRUCE:

18 Q. When you stated earlier that you relied on facts and
19 materials from this case --

20 A. Yes. There are a few facts that I think are important.
21 Of course, it's important that Mr. Aly Saad Aly is Egyptian
22 because --

23 Q. Excuse me. Can you tell the Court why that's
24 important?

25 A. Yeah. That's important because Egypt is one of the

1 countries that has been resistant to change in this area,
2 and my particular area of interest is looking at laws
3 related to female genital cutting, and what you see is that
4 countries pass these laws as a result of international
5 pressure if there is not local change on the ground.

6 And that is nowhere more true than in Egypt, and
7 then there is some additional facts that also support my
8 opinion.

9 Q. Ms. Boyle, if I can just ask you one more question
10 about Egypt.

11 A. Sure.

12 Q. Isn't female genital cutting illegal in Egypt?

13 A. Yes, it's been illegal since 2008, and yet 60 percent
14 of women still favor the practice, and the numbers are even
15 higher among men. Among women who -- well, in the 1990s it
16 was true that 96 percent of Egyptian women were
17 circumcised.

18 The numbers have gone down, but recent events
19 with the ousting of President Mubarak and the installation
20 of President Morsi have reversed the trends, and there is
21 some movement toward legalizing female genital cutting
22 again, but I think the really important point is, even if
23 it's illegal, it's still widely practiced.

24 It's practiced by over half of the population
25 still.

1 Q. And would you say it's easy to obtain --

2 A. Yes.

3 Q. -- the procedure?

4 A. Yes, it's definitely easy to obtain.

5 Q. Are there certain groups in Egypt who are more prone to
6 taking the practice, undertaking the practice of FGC?

7 A. Yes, the current president, Mohamed Morsi, is from the
8 Muslim Brotherhood and has said that this is a private
9 matter, so he is -- which is kind of like saying that wife
10 battering is a private matter, sort of taking the State's
11 role out of eliminating the practice.

12 And then the other party that is very prevalent
13 in the current legislative makeup is the Salafis, and they
14 have proposed, the al-Nour party, which is the Salafi
15 party, has proposed legislation making female genital
16 cutting legal in Egypt.

17 So the Salafis in particular seem to be
18 supportive of the practice.

19 Q. And who are the Salafi?

20 A. Salafis are a group of Muslims who believe that the,
21 that Islamic law the way it was written in Muhammad's time
22 is the way that it should be observed today, and so unlike
23 most Muslim groups which think that you have to read the
24 Koran in the social context of contemporary times, the
25 Salafis think that you have to look at the texts and

1 interpret them the way they were interpreted in, you know,
2 600 to -- 650 to 700 AD.

3 MS. BRUCE: Your Honor, I see that it's about
4 eight past. I would at least offer Ms. Boyle's expert
5 report, which is Exhibit 67, into evidence. We will try
6 and work with her for tomorrow.

7 THE COURT: All right. 67, any objection?

8 MS. BERG: Continuing objection, Your Honor.

11 Okay. Let's wrap up for the day, and then we
12 will start at 9:30 tomorrow, and we will just work with
13 each other in a schedule and see if we can get everything
14 done.

15 MS. BERG: Can we leave things here?

16 THE COURT: You can. All right. We will be in
17 recess. Thank you.

18 THE CLERK: All rise.

19 ★ ★ ★

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25

1 I, Kristine Mousseau, certify that the foregoing
2 is a correct transcript from the record of proceedings in
3 the above-entitled matter.

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7 Certified by: s/ Kristine Mousseau, CRR-RPR
8 Kristine Mousseau, CRR-RPR

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WITNESS DIRECT CROSS REDIRECT RECROSS

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Mohamed Aly Saad Aly 29 89

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Saadia Mohamed Attia Farag

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126 129 132

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Elizabeth Boyle 136

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8

PETITIONER'S EXHIBITS:

9

1,	2 and 3	69
4,	5, 6, 7 and 8	70
9	and 10	71
11	11	42
12	12, 13 and 14	73
13	15	74
14	16	42
15	17	74
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19	23	78
20	24	79
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23	29	80
24	30	81
25	31	82

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RESPONDENT'S EXHIBITS:

20

26	107
27	95
33, 38 and 39	107
67	140
68 and 69	135
75	99

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